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An analysis of the operations of police compulsory arbitration boards in the State of Rhode Island and Providence Plantations.

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AN ANALYSIS OF THE OPERATIONS OF POLICE COMPULSORY ARBITRATION BOARDS IN THE STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

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To My Wife, Linda

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C H A P T E R I

INTRODUCTION

In the past decade, collective bargaining has obtained a new lease on life.[1] Through the signing of presidential and gubernatorial executive orders and the passage of state laws, employees in the public sector have obtained and begun to exercise the right to organize and bargain collectively over their terms and conditions of employment. These rights, however, did not come without a struggle on the part of the public servant, nor did they come swiftly.

Since 1919, the drive for collective bargaining for public school teachers has been underway. According to Moskow, the struggle gained impetus in December, 1961, when the United Federation of Teachers, a local

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[1]See for instance: Solomon Barkin, The Decline of the Labor Movement (Santa Barbara, California: Center for the Study of Democratic Institutions, 1961); Paul Jacobs, Old Before its Time: Collective Bargaining at 28 (Santa Barbara, California; Center for the Study of Democratic Institutions, 1963); Joel Seidman, "The Sources for Future Growth and Decline in American Trade Unions," Proceedings of the Seventeenth Annual Meeting, Industrial Relations Research Association (Madison, Wisconsin: 1965), pp. 89-108; and Joseph Shister, "The Direction of Unionism 1947-1967; Thrust or Drift?" Industrial and Labor Relations Review, Vol. 20, No. 4, July, 1967, pp. 578-601.

affiliate of the American Federation of Teachers, was given support in the form of personnel and financial resources by the labor movement. The major contributor of support was the Industrial Union Department of the AFL-CIO. Upon receipt of these contributions, the AFT joined the IUD. Since then the IUD has been deeply involved in organizing campaigns for collective bargaining. In addition, the National Education Association has been spending huge sums of money toward the same outcome.[2]

In 1943 the nurses of California started their long drive for collective bargaining rights when they formed the California State Nurses Association. It was this association that showed what collective action could do to improve the terms and conditions of employment.[3] It was this association that guided the American Nurses Association to unanimously adopt the Economic Security Program in 1946. The objectives of this program were: "(1) to secure for nurses, through their professional associations, protection and improvement

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[2]Michael H. Moskow, "Collective Bargaining for Public School Teachers," in Critical Issues in Labor, ed. by Max S. Wortman (New York: The Macmillan Company, 1969), pp. 87-88.

[3]Max S. Wortman, Critical Issues in Labor (New York: The Macmillan Company, 1969), p. 40.

of their economic security--reasonable and satisfying conditions of employment; and (2) . . . to assure the public that professional nursing service of high quality and in sufficient quantity, will be available for the sick of the country."[4] Since that time several states have passed laws enabling nurses to bargain collectively.

These two groups are by no means the only ones in the public sector that have spent time and money to advance the cause of collective bargaining. Similarly, transit workers, fire fighters, policemen, as well as federal employees, among others, have struggled for the right to bargain collectively over terms and conditions of employment.

Every year the number of union members in the public sector is increasing. With this increase has come substantial changes in work relationships and working conditions--including the possibility of work stoppages. Although strikes by public employees are prohibited by law in nearly every state, such stoppages have occurred with increasing frequency in recent years.

One possible solution to the problem of strikes in the public sector is called compulsory arbitration.

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[4]"The ANA Economic Security Program," American Journal of Nursing, Vol. 47, No. 2, (February, 1947), p. 70.

In effect, compulsory arbitration relies upon "the persuasion of power rather than the power of persuasion".[5] According to Sanford Cohen,

> Under compulsory arbitration, strikes are prohibited by law, and disputes, if otherwise unresolved, must be decided by a specified arbitration process. The idea of compulsory arbitration has much surface appeal. Actually, it has dangers and problems. The major argument for compulsion is that it is a relatively effective method of stopping strikes that for one reason or another must not be allowed to occur. The arguments against it challenge the workability as well as the alleged value of the process.[6]

The role of compulsory arbitration in collective bargaining has long been controversial.[7] However, until the late 1960's, the arguments for and against its use in the public sector were purely theoretical. In 1965 these theoretical arguments began to be realistic. For example, Wyoming was the first state to legislate compulsory arbitration as the final step to

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[5]Neil W. Chamberlain and James W. Kuhn, Collective Bargaining (2nd ed., New York: McGraw-Hill Book Company, 1965), p. 418.

[6]Sanford Cohen, Labor in the United States (3rd ed., Ohio: Charles E. Merrill Publishing Company, 1970), p. 267.

[7]See for example: Herbert R. Northrup, Compulsory Arbitration and Government Intervention in Labor Disputes (Washington: Labor Policy Association, Inc., 1966).

impasses in negotiations between public employers and certain groups of public employees. Although the Wyoming statute applied only to firefighters, it set the stage for other states to enact compulsory arbitration statutes.

Since 1965, five other states have followed: Rhode Island (1968), Pennsylvania (1968), Michigan (1969), Hawaii (1970), and Vermont (1970).

Since the State of Rhode Island and Providence Plantations[8] has made no provision for compiling any information on the experience under the act, it would appear appropriate that a detailed analysis of one area of employment covered by the law, namely, the police departments, would greatly aid all parties concerned. The parties would include the union, the management, arbitrators, the legislature in Rhode Island, and other state legislatures contemplating similar laws. Such a study is intended to aid in an appraisal of the effectiveness of compulsory arbitration boards in the public sector.

Purpose of the Research Project

The purposes of this project are: (1) to describe

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[8]The official title of the State is The State of Rhode Island and Providence Plantations, hereafter referred to as the State of Rhode Island or as Rhode Island.

how the tripartite compulsory arbitration boards operate in the State of Rhode Island; and (2) to consider some of the effects of these compulsory arbitration boards upon police labor-management relationships in the State of Rhode Island.

Objectives of the Study

This study will determine whether or not the use of collective bargaining in the public sector has decreased in the State of Rhode Island. In other words, since both parties (labor and the corporate authority) know that a third party will resolve any and all disputes, they could feel, as has been suggested by cities and towns with compulsory arbitration, that they do not have to work as diligently as they might to arrive at a mutually acceptable and determined solution.

Another objective of this study is to ascertain any possible changes which should take place. One possible change might be in the board itself (that is, the composition of the arbitration board or the procedures by which the members of the board are chosen). A second possible change might take place in the procedures which the board follows.

Depending on the effect that compulsory arbitration has on the collective bargaining process itself and on

participants' satisfaction as a whole, statements could be made as to the impact that compulsory arbitration has had on the labor-management relationship in a specific situation.

Significance of the Study

In a recent article by Hervey A. Juris and Kay B. Hutchison,[9] the legal status of collective action by municipal law enforcement officers was studied by individual states. They found that: (1) police employee organizations exist in large numbers across the United States; (2) these organizations are police-only local units; and (3) most of these organizations function as unions regardless of their affiliation. Moreover, eleven states have no current legislation regarding the policeman's right to join a union and bargain collectively, and twenty-four states have only implied rights in this matter. The authors indicate that a strong drive by a police "union" might cause these thirty-five states to reconsider their positions.

In the past, studies have been made in the private sectors of the economy. The results have been used to

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[9]Hervey A. Juris and Kay B. Hutchison, "The Legal Status of Municipal Police Employee Organizations," Industrial and Labor Relations Review, Vol. 23 (April, 1970), p. 362-363.

suggest "new" ideas into the public sector. This study will make available to the private sector additional information on public sector experience with compulsory arbitration.

This study could also have significance for the field of collective bargaining. As previously reported, eleven states have no legislation regarding the policeman's right to join a union and bargain collectively, and twenty-four states have implied rights in this matter. This study could have an impact on these states when they examine the experiences of other states. This does not mean that only police department collective bargaining would be affected. Other public sector employees such as teachers, nurses, garbage collectors, transit workers, among others, might be covered by state laws enacted as a result of the experiences encountered in Rhode Island and reported in this study.

Students of collective bargaining would have another study to compare the impact that arbitration can have on labor-management relationships in both sectors.

CHAPTER II

HISTORY AND GROWTH OF ARBITRATION

According to Flemming, the American experience with labor arbitration is clearly divided into three periods.[1] The first period extends from 1871 when the anthracite workers of Pennsylvania arbitrated disputes in the first recorded arbitration proceeding[2] to the outset of World War II in 1941; the second period from 1941 to the Lincoln Mills decision in 1957;[3] and the third period includes those years from 1957 to the present.

There are marked differences between these periods, for the word "arbitration" lacks a common meaning; there are also marked similarities, and the arbitration machinery of today has deep roots in the past. Common themes run throughout the three periods--for example, outside pressures for arbitration in the "emergency"

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[1]R. W. Flemming, The Labor Arbitration Process (Illinois: University of Illinois Press, 1965), p. 1.

[2]"Results of Arbitration Cases Involving Wages and Hours, 1865-1929", Monthly Labor Review, Volume 29, Number 1, 1929, pp. 14, 16.

[3]Textile Workers Union v. Lincoln Mills of Alabama, 353 U.S. 448 (1957).

situations and private efforts to develop a continuing mechanism for settling day-to-day disputes were just as prevalent in 1871 as they are in 1971. Beyond these generalities, a true perspective comes only with a more detailed examination of each of the periods.[4]

Three Periods of Arbitration

The First Period

The first known case in which an outside arbitrator was employed took place in 1871. The Committee of the Anthracite Board of Trade and the Committee of the Workingmen's Benevolent Association agreed to settle their disputes over "questions on interference with the works, and discharging men for their connection with the Workingmen's Benevolent Association" by referring the matter to Judge William Elwell of Bloomsburg, Pennsylvania.[5] The result was satisfactory to the parties involved. But in 1874, when the Ohio coal operators and the coal miner's union submitted their dispute to another judge for a decision, one company refused to accept the result and a strike occurred. Ultimately, the operators all conformed to

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[4]Flemming, Labor Arbitration, p. 1.

[5]Ibid.

the desires of the dissenting company rather than to the arbitrator's award.[6]

As a general proposition, according to Flemming,

> Arbitration prior to the turn of the century, and even during the early 1900's, was thought of as a substitute for the strike in bringing about agreement over basic issues like wages . . . It was, in fact, almost a truism of the period that strikes were dangerous and ineffective, did more harm than good, and should be supplanted by peaceful and intelligent methods for the settlement of the industrial disputes.[7]

Interest in arbitration was furthered in the 1890's through the work of an organization called the Congress of Industrial Conciliation and Arbitration. This organization included leaders from industry, labor, and government who were interested in promoting industrial harmony. In addition to these private efforts, there were pressures on state legislatures to establish such laws. In these states, the board's function was primarily one of mediation rather than arbitration as we now know it.[8]

One of the critical industries, the railroads, felt public pressure for the establishment of arbitra-

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[6] Ibid., p. 2.

[7] Ibid.

[8] Ibid., p. 3.

tion machinery in the last quarter of the nineteenth century. The great railway strikes of the 1870's and 1880's brought about the introduction of bills in Congress for conciliation and arbitration. The first federal law, the Arbitration Act of 1888, was ineffective. No proceedings were initiated under it except that a commission of three members was formed by the President to report on the Pullman strike.[9]

The Arbitration Act was replaced by the Erdman Act in 1898. This act also proved to be ineffective during the early years because the carriers were opposed to intervention. By 1906, the unions had grown stronger, and in the period from 1906 to 1913, sixty-one controversies were settled, six of them by arbitration, and not a single important strike occurred affecting the operation of the trains.[10]

In 1913, the Newlands Act, which created a Board of Mediation and Conciliation with four full-time members, was passed when a deadlock developed over the composition of arbitration boards under the Erdman Act.

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[9]Harry A. Millis and Royal E. Montgomery, Organized Labor (New York: McGraw-Hill Book Company, Inc., 1945), pp. 730-731.

[10]Ibid., p. 731.

This Board worked successfully until 1916, when the employees, who were dissatisfied with some previous awards, refused to submit their demands for an eight-hour day to arbitration. A nationwide strike was averted only by passage of the Adamson Act two days before the strike was to take place.[11] This act provided for the basic eight-hour day, but payment for overtime was to be at pro-rata rates, rather than time and one-half, as the employees had requested. It also provided for the appointment of a three member commission to study the operation and effects of the eight-hour day, and to report its findings to the President and Congress.

During this time period, Congress deliberated over the passage of a compulsory arbitration law. However, changes did not come until 1926. In that year, Congress passed the Railway Labor Act, which established a five man Board of Mediation similar to the one provided under the Newlands Act. A distinction was made between disputes arising out of interpretation and application of the agreement and those having to do with changes in rates of pay rules, or working conditions. For a time this act worked well, but the Depression of the 1930's

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[11] Ibid., pp. 732-734.

brought about an accumulation of unsettled disputes and grievances which caused further amendments in 1934. Since then, the Railway Labor Act has remained substantially the same.[12]

While Congressional efforts to achieve agreement at the national level failed, continuing progress was made in more limited private areas. Arbitration was becoming increasingly popular in labor-management relationships. The Arbitration Society of America was formed in 1922 and the American Arbitration Association in 1926. The example of the use of arbitration in commercial affairs doubtlessly served to popularize the method, particularly among lawyers and businessmen.[13] Just prior to the 1929 economic depression, union membership was estimated at only 3.4 million.[14] This figure represented a decline of more than 1,500,000 members since World War I. Furthermore, this period was the first time that the unions had failed to gain in a time of prosperity.

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[12]Ibid., pp. 738-740.

[13]Emil Edwin Witte, Historical Survey of Labor Arbitration (Philadelphia: University of Pennsylvania, 1952), p. 5.

[14]Flemming, Labor Arbitration, p. 12.

The passage of the Wagner Act in 1935 changed the situation. The question of national policy with regard to union recognition about which there had always been so much dispute was now settled. However, it was 1937 before the Supreme Court sustained the constitutionality of the Wagner Act in the Jones and Laughlin case.[15] Henceforth, national policy favored collective bargaining.

By 1939 union membership was estimated at over eight million and by the end of World War II at sixteen million.[16] Hundreds of new contracts, some of them hastily worded, were drawn up. The immediate result was to raise questions of interpretation and application and, upon becoming deadlocked, the parties often turned to arbitration. Although there were no reliable estimates as to the use of arbitration prior to 1940, it was estimated that fewer than eight to ten per cent of the agreements in effect during the 1930's provided for arbitration of grievances as the final step in the

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[15]NLRB v. Jones & Laughlin Steel Co., 301 U.S. 1 (1937).

[16]Milton Derber, "Growth and Expansion," in Labor and the New Deal, ed. by Milton Derber and Edwin Young (Madison: University of Wisconsin Press, 1957), p. 5.

collective bargaining procedure.[17] By 1941 the United States Conciliation Service found such clauses in sixty-two per cent of the twelve hundred agreements in its files.[18]

The Second Period

When the nation entered World War II, industrial disputes could no longer be tolerated. Accordingly, labor and management accepted President Roosevelt's request for a no-strike, no-lockout agreement and a tripartite War Labor Board was established. Throughout the war, the War Labor Board vigorously supported the utilization of existing voluntary arbitration procedures and promoted the inclusion of grievance arbitration provisions in those contracts which did not already contain it. Under the Wage Stabilization Act of 1942, free collective bargaining was limited by the requirement that the government approve wage and related matters. This Act made it impossible for the Board to give approval to arbitration awards which affected wages, but the Board nevertheless attempted to work out an

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[17]Sumner H. Slichter, James J. Healy, and E. Robert Livernash, The Impact of Collective Bargaining on Management (Washington, D.C.: The Brookings Institute, 1960), p. 739.

[18]Flemming, Labor Arbitration, p. 13.

accomodation.

The importance of the War Labor Board's attitude toward grievance arbitration is underlined if one looks again at the state of union organization in 1941. The passage of the Wagner Act in 1935, and the ruling that it was constitutional in 1937, caused many corporations like General Motors, U.S. Rubber, Jones and Laughlin, and General Electric to accept collective bargaining. But others such as Ford, Goodyear, Westinghouse, and Swift did not sign agreements until 1941.[19] The decision of the U.S. Supreme Court in the H.J. Heinz case, requiring collective agreements to be put in the form of signed written contracts, caused a change in attitude in many quarters.[20]

Just before the passage of the Wagner Act, union membership was approximately three million members. By 1939 there were eight to nine million members, and by 1945 the figure had increased to between thirteen and fourteen million. Ten years later, in 1955, the figure was approximately sixteen to seventeen million.[21] The

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[19]Derber, Labor and the New Deal, p. 12.

[20]H.J. Heinz Co. v. NLRB, 311 U.S. 514 (1941)

[21]Derber, Labor and the New Deal, p. 3.

number of collective bargaining contracts naturally increased, as did the number of contracts including an arbitration clause. By 1944 the Bureau of Labor Statistics reported finding grievance arbitration provisions in seventy-three per cent of the agreements in its file. The figure increased to eighty-three per cent in 1949 and to ninety-four per cent in 1960-1961.[22]

The War Labor Board ceased to exist shortly after the war ended in 1945. Had grievance arbitration been proven unsatisfactory, one might have expected that it would be dropped from the many contracts that had adopted its use during the war. As the previous statistics indicate, this did not occur.

In retrospect, it is clear that World War II had three effects insofar as voluntary arbitration is concerned. First, it encouraged widespread adoption of arbitration techniques. Second, the War Labor Board served as a training ground for the men who subsequently served as arbitrators. Third, it sharpened the distinction between arbitration over rights and interests. According to Wortman, arbitration of rights is grievance

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[22]U.S., Department of Labor, "U.S. Bureau of Labor Statistics-Major Collective Bargaining Agreements: Grievance Procedures", Bulletin No. 1425-1 (Washington, D.C.: Government Printing Office, 1964), p. 1.

arbitration, in which the arbitrator interprets the contracts which have already been negotiated, and arbitration of interests is contract arbitration in which the impartial umpire decides the unresolved issues for the parties.[23]

With this distinction came the opinion that contract, or interest arbitration, was of lesser importance than rights arbitration.[24] Interest arbitration is concerned with the submission of a collective bargaining issue which they have been unable to settle themselves by an employer and a union to an impartial outsider. Gregory has suggested that the compulsory arbitration of interests "should be called "compulsory collective bargaining' rather than arbitration."[25]

According to Gregory, this submission of contract issues is not arbitration at all because the neutral person hearing the case has no recognized standards to

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[23]C. Wilson Randle and Max S. Wortman, Jr., Collective Bargaining (2nd ed.; Boston, Mass.: Houghton Mifflin Company, 1966), pp. 256-257.

[24]See for instance: Charles O. Gregory, Labor and the Law (2nd ed.; New York: W.W. Norton & Company, Inc., 1961), p. 477; and Irving Bernstein, "Arbitration" in Industrial Conflict, eds. Arthur Kornhauser, Robert Dubin, and Arthur Ross (New York: McGraw-Hill Book Co., Inc., 1954), p. 302.

[25]Gregory, Labor and the Law, p. 477.

guide his deliberations and influence his conclusions.[26] When the issue is a wage increase, the parties may submit evidence of advances in the cost of living index. They may show what wage rates prevail in similar industries operating under similar conditions, and what the trend of wage increases has been among the particular employer's competitors. Also, testimony may be offered in connection with the employer's business prospects and his ability to pay the union requests or to pay any increase at all.

Regardless of how formally and scientifically all such evidence is prepared and submitted at the hearing, it is not much help to the arbitrator. It is almost as speculative as considering what might have ensued had the union chosen to strike. This so-called economic evidence gives the arbitrator some facts to consider, but it furnishes only the roughest of guides.[27]

This belief of an absence of definite principles or standards to govern the decision is not entirely justified,[28] according to Elkouri. There are a number

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[26] Ibid., p. 478.

[27] Ibid.

[28] Frank Elkouri, How Arbitration Works (Washington, D.C.: The Bureau of National Affairs, Inc., 1952), p. 22.

of standards which, while not as adequate as may be desired, are available and applied in the arbitration of interest disputes. Four of these standards are as follows:[29]

(1) Prevailing Practice - Industry, Area, Industry-Area

> In giving effect to the prevailing practice, an arbitrator relies upon precedent, adopting for the parties that which has been adopted by other parties through collective bargaining, or, as sometimes is the case, as a result of arbitration awards. An award based upon application of this standard is not likely to be too far from the expectations of the parties, since most persons in the business community have long accepted the idea that there should be no basic inequalities among comparable individuals or groups.[30]

(2) Cost of Living

> The cost-of-living standard is frequently advanced in collective bargaining and arbitration during periods characterized by pronounced changes in living costs. In applying the cost-of-living standard, arbitrators rely heavily upon the index issued monthly by the Bureau of Labor Statistics of the United States Department of Labor. This index reflects the cost of living as of a date about six weeks prior to its issuance. By use of the index it is possible to measure changes in retail costs of services and commodities and the resulting effect upon the purchasing power of the income of workers in

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[29]For a complete listing see Elkouri, How Arbitration Works, pp. 99-129.

[30]Ibid., p. 95.

the larger cities.[31]

(3) Ability to Pay

Although it is a generally recognized principle that large profits do not alone justify demands for wages substantially higher than those which are standard within an industry, and that small profits do not justify the payment of substandard wages, the ability-to-pay criterion is of great importance in the determination of wage rates and other contract benefits.[32] This importance lies in the fact that, while an employer's ability to pay is not, in and of itself, a sufficient basis for a change in wages, it is a significant element properly to be taken into account in determining the weight to be attached to other criteria.[33]

(4) Public Interest

The question arises as to how far arbitrators should go in considering the public-interest aspects of 'interest' disputes. The public, although not a direct party, has a vital interest in the settlement of some disputes. Fact-finding boards do give strong consideration to the public welfare in making recommendations. It is in respect to public utility disputes that the public-interest criteria are most often invoked. Two considerations are generally involved. The first is that services of public utilities, being constantly consumed necessities of life, should be made available to consumers at a fair price. Since wages paid by a utility will directly affect the cost of its services to the public, the amount of any wage increase granted might be

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[31] ibid., p. 95.

[32] See for instance: Third Avenue Transit Corp. et al., 1 LA 321 (1946); General Motors Corp., 1 LA 125 (1946); International Harvester Co., 1 LA 512 (1946).

[33] Elkouri, How Arbitration Works, p. 111.

> affected by the arbitrator's conclusion as to the probable effect of the increase upon the price of the service involved. The arbitrator will keep in mind the needs of the consumer. The second consideration, which has been assuming increasing importance in recent years, recognizes that the public has a paramount interest in continuity of operations of public utilities. The public expects utilities to provide uninterrupted service. Some states have enacted legislation to prevent strikes by public utility employees. Even before the passage of such laws, however, most public-utility labor had come to recognize that its responsibility to the public required uninterrupted services.[34]

In addition, Bernstein states that a high incidence of the utilization of interest arbitration in the public sector stems from a recognition by both management and unions that contract arbitration, despite inherent limitations, is preferable to the stoppage of a vital service.[35]

In the years between 1941 and 1957 it became clear that arbitration was not only a device for settling differences of opinion over the meaning and interpretation of contracts, but was also a device for settling differences of opinion over the content of contracts as well. Arbitration in this period was related to bargaining strategy, to human relations within the

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[34] Ibid., pp. 126-127.

[35] Bernstein, "Arbitration", p. 303.

plant, and to organizational imperatives within the management and union structures. It was less concerned with the law, and is what distinguishes the next period--after 1957--from the other two.

The Third Period

When the Taft-Hartley Act was passed in 1947, it included the following important Section 301. Subsection (a) states:

> Suits for violation of contracts between an employer and a labor organization representing employees in an industry affecting commerce as defined in this Act, or between any such labor organizations, may be brought in any district court of the United States having jurisdiction of the parties, without respect to the amount in controversy or without regard to the citizenship of the parties.[36]

According to Wortman, "this section obviously applies to disputes which arise concerning arbitrability or the obligation to arbitrate a particular dispute. In 1957, the Supreme Court decided in the Lincoln Mills[37] case that arbitration clauses in contracts were enforceable in the federal court system and that interpretation of the contract was to be effected in the light of

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[36]Section 301 (a), Labor-Management Relations Act of 1947.

[37]Textile Workers' Union v. Lincoln Mills of Alabama, 353 U.S. 448 (1957).

federal law.[38]

Since this decision was difficult to interpret, arbitrators were unclear as to what the courts meant by this decision. Three years after Lincoln Mills, in June of 1960, the Supreme Court decided three Steelworkers cases, popularly known as the Trilogy.[39] Arbitrability (the question of whether the contract required the parties to arbitrate a given issue) had been troublesome, for despite the contractual commitment to arbitrate, one party might refuse to submit a given issue on the grounds that the contract did not require it to do so. The Trilogy terminated this as the court stated:

> In the absence of any express provision excluding a particular grievance from arbitration, we think only the most forceful evidence of a purpose to exclude the claim from arbitration can prevail, particularly where, as here, the exclusion clause is vague and the arbitration clause quite broad. Since any attempt by a court to infer such a purpose necessarily comprehends the merits, the court should view with suspicion an attempt to persuade it to become entangled in the construction of the

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[38]Randle and Wortman, Collective Bargaining, p. 258.

[39]United Steelworkers of America v. Warrior & Gulf Navigation Co., 363 U.S. 574 (1960); United Steelworkers of America v. Enterprise Wheel & Car Corporation, 363 U.S. 593 (1960); United States Steelworkers of America v. American Manufacturing Co., 363 U.S. 564 (1960).

> substantive provisions of a labor agreement, even though the back door of interpreting the arbitration clause, when the alternative is to utilize the services of an arbitrator.[40]

In another of the Trilogy cases, the court gave strong support to the power of arbitrators to create remedies. After noting that "the question of interpretation of the collective bargaining agreement is a question for the arbitrator" and "the courts have no business overruling him because their interpretation of the contract is different from his,"[41] the court stated:

> When an arbitrator is commissioned to interpret and apply the collective bargaining agreement, he is to bring his informed judgement to bear in order to reach a fair solution of a problem. This is especially true when it comes to formulating remedies. There the need is for flexibility in meeting a wide variety of situations. The draftsmen may never have thought of what specific remedy should be awarded to meet a particular contingency. Nevertheless, an arbitrator is confined to interpretation and application of the collective bargaining agreement; he does not sit to dispense his own brand of industrial justice. He may of course look for guidance from many sources, yet his award is legitimate only so long as it draws its essence from the collective bargaining agreement. When the arbitrator's words manifest an infidelity to this obligation, courts have no choice but to

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[40]United Steelworkers of America v. Warrior & Gulf Navigation Co., 363 U.S. 574 (1960).

[41]Flemming, Labor Arbitration, p. 25.

refuse enforcement of the award.[42]

The effect of the Trilogy was to enhance the power and prestige of the arbitration process. Court decisions have not changed the fact that grievance arbitration is basically a private system of jurisprudence. However, these decisions have stated that contractual agreements to arbitrate, as well as awards, are no longer mere gentlemen's agreements, but are enforceable by order of the court.

One other use for arbitration has emerged in the period between 1957 and the present. On January 17, 1962, President Kennedy signed Executive Order 10988 which was designed to encourage recognition of and bargaining with unions in the federal service.[43] Under the order, a union which represents the majority of the employees in an appropriate unit, is entitled to exclusive recognition. Because disputes may arise as to what is the appropriate unit, or over whether the union does represent a majority of the employees, arbitrators drawn from the panel maintained by the Federal Mediation and Conciliation Service, may be

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[42] United Steelworkers of America v. Enterprise Wheel & Car Corp. 363 U.S. 593 (1960).

[43] 27 Fed. Reg. 551 (1962).

nominated by the Secretary of Labor to resolve those questions.[44] Further discussion of this subject will be found later in the following chapter.

Experiences With Arbitration

Selected American Experiences

The Railway Labor Act provides the framework for the most comprehensive control of labor relations and labor disputes on the American railroad scene, and the most detailed experience with fact finding procedure. This Act came about as a result of dissatisfaction with the then existing governmental intervention machinery which followed governmental operation of the railroad during World War I. This Act made it the duty of the parties to exert every reasonable effort to "make and maintain agreements concerning rates of pay and working conditions," and to attempt to adjust all differences by peaceful methods.[45]

A five-man, nonpartisan Board of Mediation was created, which attempted mediation if the parties could not agree among themselves. The Board was further

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[44]Flemming, Labor Arbitration, pp. 28-29.

[45]Herbert R. Northrup, Compulsory Arbitration and Government Intervention in Labor Disputes (Washington, D.C.: Labor Policy Association, Inc., 1966), p. 52.

instructed to urge voluntary arbitration if mediation proved unsuccessful. If arbitration was refused and the dispute was such as to interrupt interstate commerce, the Board of Mediation was instructed to notify the President, who could create special emergency boards to investigate and publish findings. During the time period between these various proceedings and the thirty days after the report of the emergency board, neither party was to alter the conditions out of which the dispute arose except by mutual agreement. The parties, however, were under no legal obligation to accept the recommendations of the emergency board.[46]

The period from 1926 to 1934, during which railway labor relations were conducted under the 1926 legislation, was relatively peaceful. Only two strikes occurred. Although ten emergency boards were appointed, half of these were set up during the last year of the Act's operation. The increased threats to railway labor peace during the last year of the Act have been attributed by Kaltenborn to inherent defects in the legislation.[47]

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[46] Ibid.

[47] H. S. Kaltenborn, Government Adjustment of Labor Disputes (Chicago: Foundation Press, 1943), p. 52.

Whatever its merits, the 1926 Act was found defective by the railway unions on several counts. They desired national adjustment boards with effective machinery for breaking deadlocks and for enforcing awards; specific penalties, in addition to the injunctive process, to prevent carrier's influence over the choice of employee's representatives; formal machinery by which bargaining agents could be selected; and drastic changes in personnel of the Board of Mediation, which had fallen from their favor. All these objectives were achieved by the 1934 amendments to the Railway Labor Act.[48]

The amended Railway Labor Act maintains the basic structure of the 1926 legislation insofar as mediation, arbitration, and the appointment of emergency boards are concerned. The main difference in this respect is that the five-man Board of Mediation was abolished and replaced by a three-man National Mediation Board. The 1934 amendments established the National Railroad Adjustment Board, which had jurisdiction over grievances and disputes arising out of the interpretation of agreements. The amendments also provided elaborate safeguards for the free choice of employee representatives

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[48]Northrup, Compulsory Arbitration, p. 53.

by setting forth a list of unfair labor practices similar to those contained in the Wagner Act.

As a comprehensive code of labor legislation for railroads, the Railway Labor Act: (1) established definite provisions for the conduct of negotiations and provided for the postponement of strikes or lockouts until a variety of government intervention techniques have occurred; (2) provided for compulsory arbitration of grievance disputes before a national, publicly supported bipartisan board; (3) provided for a method of selecting bargaining representatives and proscribed employer unfair labor practices; and (4) applied the principles and practices of the Act which were developed in the railroad industry to a new industry--air transportation.[49]

With respect to compulsory arbitration, the government outlawed railroad strikes in the years 1963, 1967, and 1970. In so doing, a precedent was established that may be followed in the future. According to Taylor and Witney:

> Whether or not the carriers and the organizations like it or not, whether or not the true public interest is promoted by this policy, the cold and inexorable fact is that from this time forward the federal government

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[49] Ibid., pp. 54-55.

> will not permit national railway strikes. The carriers and organizations must understand this and base their future actions on the basis of this incontrovertible proposition. No longer will the threat of a strike or lockout serve to stimulate and induce the parties to reach a settlement in genuine and good-faith collective bargaining. The government has removed the threat from the picture, and future policies and behavior of the carriers and the union organization will take this into account.[50]

In effect, what has happened in the railroad industry is that once the parties understood that the government would not tolerate a national railroad work stoppage, there was no realistic collective bargaining. The parties do meet and discuss issues but once they understand that there will be no strike or lockout, they make no serious attempt to reach a settlement. This raises two basic questions: (1) Why should the parties bargain realistically when they are fully aware that failure to reach a settlement would not result in economic sanctions? and (2) Why should they make any genuine and serious effort to resolve their differences when they are aware that making concessions would serve to weaken their position in the eventual arbitration?[51]

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[50]Benjamin J. Taylor and Fred Witney, Labor Relations Law (New Jersey: Prentice-Hall, Inc., 1971), pp. 455-6.

[51]Taylor and Witney, Labor Relations Law, p. 456.

Another experience with compulsory arbitration occurred when the legislature in Kansas passed the Industrial Court Act in January, 1920. This Act was passed in response to a coal strike in 1919, which limited the coal supply just as winter began. Many schools and industrial plants were forced to close for lack of fuel. The object of the Act was to protect the public against organized oppression, to safeguard liberty, to settle differences on their merits, and to maintain industrial peace.[52] This legislation applied only to specified essential industries. According to Millis and Montgomery, these industries were:[53]

(1) the manufacture or preparation of food products;

(2) the manufacture of clothing;

(3) the mining or production of any substance or material in common use as fuel;

(4) the transportation of any and all of the above; and

(5) all public utilities and all common carriers.

Since arbitration with representatives of both parties participating was regarded as undesirable by the legislature, the law provided for the settling of

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[52]Millis and Montgomery, Organized Labor, p. 823.

[53]Ibid.

disputes by a Court of Industrial Relations consisting of three neutral parties.

A considerable number of cases were decided satisfactorily by the Court, and an unknown number of strikes prevented. There were also a number of situations in which the Court proved to be ineffective. An example was the spontaneous walkout of a majority of miners in a district that left the Court at a loss as to how to proceed. It could not take any action against any union since the walkout was a voluntary individual matter.[54]

Even though many persons and organizations were receptive to compulsory arbitration, the Supreme Court of the United States declared this Act unconstitutionai on the grounds that it sought to compel owner and employees to continue in business on terms not of their own making. This infringed upon the rights of property and liberty of contract guaranteed by the due process of law clause of the Fourteenth Amendment.[55]

The Foreign Experience--Australia

In addition to the compulsory arbitration

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[54] Ibid., p. 826.

[55] Ibid., p. 827.

situation as it exists in the experiences mentioned above, it should be noted that Australia has had experience with this type of dispute settling techniques.

Since the passage of the Commonwealth Court of Conciliation and Arbitration Act of 1904, Australian labor unions have been under a form of public control and regulation. Under this Act, a registered union was given a virtual monopoly in its trade or industry to represent workers during collective bargaining processes. The chief objective of the Act was to encourage the organization of representative bodies of employers and employees and their registration under the Act.[56] Since the jurisdiction of the Court has been interpreted very liberally, practically all national labor unions have found it advantageous to register under it.[57]

Under the Commonwealth machinery, the strike or lockout is illegal once a union is registered. Strikes still remain a frequent occurrence and have been

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[56]D. W. Oxnam, "Industrial Arbitration in Australia: Its Effects on Wages and Unions," Industrial and Labor Relations Review, Vol. 9 (July, 1956), p. 615.

[57]Northrup, Compulsory Arbitration, p. 37.

increasing at a rapid rate. In 1959, Sharp wrote:

> The number of disputes per year since 1950 has been mainly in the excess of the number in years prior to that date, and has been considerably higher than the pre-war level, even allowing for population growth and increase in industrial establishments. Furthermore, whatever decline there has been in the number of disputes has occurred almost entirely in the coal mining industry. If that industry, which has been under particular economic stress in recent years, is excluded, it becomes clear, beyond doubt, that the number of disputes has been increasing quite sharply.[58]

In 1963, the number of strikes in most major groupings increased over the previous year and again in 1964 the statistics show that there was a considerable increase in the level of industrial disputes over the previous year.[59]

There are two possible explanations for the rapid rate of increase in these disputes. First, in past years a number of key unions were dominated by left-wing or Communist elements and either refused to register, or paid no heed to registration obligations. These unions have been concentrated in mining and longshore,

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[58] Ian Sharp, "Some Features of the Australian Industrial Relations Scene," The Journal of Industrial Relations, Vol. 1 (April, 1959), p. 5.

[59] J. R. Kerr, "Industrial Relations 1963-1964," The Journal of Industrial Relations, Vol. 6 (November, 1964), pp. 173-174.

which, in Australia as in many other countries, have had a record of frequent industrial stoppages.[60]

A second reason for the poor strike record in Australia is the lack of effective local or national union leadership and organization. With a union movement heavily dependent upon government and political support, with the most able union leaders siphoned into political work, and with the experience that disputes will come before a government board anyway, there is little incentive to attract promising persons into local union activity and even less incentive to settle at the local level. The failure of the Australian system to distinguish between disputes over new agreements and disputes over grievances or contract interpretation aggravates this problem because it means that any significant dispute of either kind is likely to be decided by a government tribunal rather than at a bargaining session.[61]

In recent years, the separation of the national union leadership from the rank and file has become

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[60]Arthur M. Ross and Paul T. Hartman, Changing Patterns of Industrial Conflict (New York: John Wiley & Sons, Inc., 1960), pp. 147-148.

[61]Northrup, Compulsory Arbitration, p. 40.

almost formalized by the creation of local shop councils to handle local union work. These have been condemned as Communist-inspired by top union leadership, but apparently are not always so. The councils have constituted a challenge to the union "establishment" by taking strike action without union approval.[62]

The interest of the rank and file in shop councils indicates the remoteness of dispute settlement in Australia from the union member. While strike action is still something in which the rank and file of unions generally have a direct part, the settlement of grievances and the termination of disputes through the public machinery of conciliation and arbitration has become dependent not on rank and file judgement and action, but on the services of specialists in that field, be they union officials, industrial advocates, or barristers.[63]

Compulsory arbitration has had a profound influence on trade union development in Australia. Compulsory arbitration induces the unorganized employees to organize, and the employers to negotiate before an arbitration tribunal is established. Australia has

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[62]Kerr, "Industrial Relations," pp. 173-175.

[63]Sharp, Features of Australian Scene, p. 3.

become one of the most highly unionized countries in the western world, but union organization at the local level has been neglected in the process. Today, more than sixty per cent of the employed labor force is in trade unions, largely because of the artificial creation of the arbitration system. The system has enhanced union power, but has made it utterly dependent on government.[64]

There is some indication that the trade unions are growing restless under the regulations imposed upon them. For example, the president of the Australian Council of Trade Unions advised visiting students from Asian countries, "Don't allow your workers' organizations to become shackled as we have become in Australia, through too much legalizing of the system."[65]

As to the effect on collective bargaining, all evidence points to the tendency to paralyze the propensity to settle and to bring to the arbitration courts a myriad of disputes which under a freer bargaining system would be settled by the parties

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[64] Northrup, Compulsory Arbitration, p. 43.

[65] L. S. Merrifield, "Regulations of Union Elections in Australia," Industrial and Labor Relations Review, Vol. 10 (January, 1957), p. 269.

themselves. In recent years, the red tape delays and tangled legalistic approach have induced a few industries and unions to settle their own disputes.[66]

According to Northrup,

> There can be no doubt that the Australian arbitration system has not succeeded in eliminating strikes or lockouts. It may have shortened strikes, but it certainly has increased their numbers. Anyone who believes that the existence of a compulsory arbitration system will either curb unionism or will eliminate or reduce the number of strikes would be well advised to make a realistic study of the Australian experience.[67]

According to Walker, the Australian compulsory arbitration has certain built-in rigidities:

> On a rising market arbitration prevents the workers from obtaining full advantage of their economic power due to the keen demand for labor. On a falling market, arbitration obstructs employers from obtaining the full advantages of their economic power due to the scarcity of jobs and the weakness of trade unions through abnormal unemployment.[68]

There seems to be general agreement that these rigidities exist in Australia and that another effect has been to narrow skill differentials so that the

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[66] Northrup, Compulsory Arbitration, p. 43.

[67] Ibid., p. 44.

[68] K. F. Walker, Industrial Relations in Australia (Cambridge, Mass.: Harvard University Press, 1956), p. 4.

unskilled are over-priced relative to the skilled. Such a regidity reduces the incentive to progress up the occupational ladder.

Finally, there has been some criticism of the role of the Commonwealth Arbitration Court's wage determination policy and national economic policy. Because of the nature of the Court's powers it is invariably involved in general reviews of the state of the national economy. Yet the Court appears to conduct its operations outside the framework of general economic policy and without channels of communication between it and policy-making agencies.[69]

Summary

Labor arbitration in the United States is divided into three periods. The first period began in 1871 with the first known case in which an outside umpire was employed. In the 1890's, arbitration advanced through the work of an organization called the Congress of Industrial Conciliation and Arbitration. The primary function of this board was one of mediation rather than arbitration as we know it today. Arbitration advanced further in the 1920's when the American Arbitration Association was formed. This period ended

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[69]Northrup, Compulsory Arbitration, p. 44.

when the United States entered World War II.

The years between 1941 and 1957, the second period, made it clear that grievance arbitration was not only a device for settling differences of opinion over the meaning and interpretation of contracts, but was also related to bargaining strategy, to human relations within the plant, and to organizational imperatives within the management and union structures.

The start of the third period was in the year 1957 when the Supreme Court decided in the Lincoln Mills case that arbitration clauses in contracts were enforceable in the federal court system. Other landmark cases in this period were those included in the Steelworkers Trilogy. In addition to these court decisions, President Kennedy signed Executive Order 10988, which was designed to encourage recognition of and bargaining with unions in the federal service.

Experiences with compulsory arbitration discussed in this chapter include both American and foreign. The selected American experiences are the railroad industry and the Industrial Court Act passed in Kansas. The Australian experience with compulsory arbitration began with the passage of the Commonwealth Court of Conciliation and Arbitration Act of 1904. Since that date, Australian labor unions have been under a form of public control and regulation.

CHAPTER III

PUBLIC EMPLOYMENT COLLECTIVE BARGAINING, UNIONIZATION, AND ARBITRATION

According to Taylor and Witney, the issue of public employee collective bargaining reached unprecedented proportions in the decade of the sixties. The changing composition of the labor force in the United States has brought with it a rapid rise in government employment. In 1930 about six per cent of the civilian labor force was engaged in public employment. By 1968 government employees constituted nearly seventeen per cent of the non-agricultural work force.[1] At the close of that year, federal, state, and local governments employed a total of 12,202,000 workers.[2] Government employment has more than doubled since 1947, when it totaled 5,474,000.[3]

In addition, Taylor and Witney reported that the greatest gains have been at the state and local level--

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[1]Benjamin J. Taylor and Fred Witney, Labor Relations Law (New Jersey: Prentice-Hall, Inc., 1971), p. 503.

[2]Monthly Labor Review, Vol. XCII, No. 5 (May 1969), p. 99.

[3]Ibid.

not at the federal level, as is often mistakenly believed. About one-third of state and local employees are currently associated with education. Over the twenty-one-year period, federal employment rose by about fifty per cent while state and local employment increased nearly three hundred per cent. State and local employment in 1968 accounted for 9,465,000 of the 12,202,000 government employees. If the current trend continued, nearly sixteen million persons will be employed by all levels of government by 1975.[4]

Collective Bargaining in the Public Sector

In tracing the history of collective bargaining in the public sector, unionization of the federal employees reportedly existed as early as 1800 in naval yards.[5] In addition, wage rate negotiation has occurred among various levels of TVA employees ranging from those classified as production workers through the professional ranks. Negotiations have been carried on despite the general understanding that wages are set by law.[6]

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[4]Taylor and Witney, Labor Relations Law, p. 503.

[5]H. Roberts, A Manual For Employee-Management Cooperating in the Federal Service (Hawaii: Industrial Relations Center, University of Hawaii, 1964), p. 4.

[6]Taylor and Witney, Labor Relations Law, p. 505.

The first legislation with respect to federal policy toward employee organizations was the Pendleton Act (commonly known as the Civil Service Act), passed in 1883. Under this act, only Congress has the authority to regulate wages, hours and other terms and conditions of employment.

In 1902 President Theodore Roosevelt banned federal employees from seeking beneficial legislation directly or indirectly through their associations. Benefits were to be obtained through the departments in which they were employed. A violation of the order was grounds for dismissal.[7] In 1906 President Roosevelt broadened this order and stated that:

> All officers and employees of the United States of every description, serving in or under any of the Executive Departments or independent Government establishments, and whether so serving in or out of Washington, are hereby forbidden, either directly or indirectly, individually or through associations, to solicit an increase of pay or to influence or attempt to influence in their own interest any other legislation whatever, either before Congress or its Committees, or in any way save through the heads of the Departments or independent Government establishments, in or under which they serve, on penalty of dismissal from the Government service.[8]

7Sterling Spero, Government as Employer (New York: Remsen Press, 1948), p. 122.

8Kurt L. Hanslowe, "The Emerging Law of Labor Relations in Public Employment," ILR Paperback No. 4 (Ithaca, N.Y.: New York State School of Industrial and Labor Relations, Cornell University, 1967), p. 35.

In 1912 Congress rejected this approach by passing the Lloyd-La Follette Act.[9] This statute became the basis for the principle that federal employees in general had the right to join any organization that did not assert the right to strike against the government.[10] If a literal interpretation is made, the Act restricted protection of union membership to postal employees. Despite that fact, other employees gained the right to organize on the basis of its language. However, the right to organize is of limited value if procedures are not provided to guarantee an effective collective bargaining process.[11]

In 1920 the government negotiated its first written labor agreement.[12] This contract covered most of the construction workers on the Alaskan railroad and proved to be an added impetus to federal employee bargaining. This progress was soon slowed by the Boston police strike at the local level which will be discussed later.

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[9] 95 U.S.C. 642 (1912).

[10] Charles B. Craver, "Bargaining in the Federal Sector," Labor Law Journal, Vol. XIX, No. 9 (September, 1968), p. 570.

[11] Taylor and Witney, Labor Relations Law, p. 506.

[12] Craver, "Bargaining in the Federal Sector".

In the 1940's, another thrust was made by employees in the public sector for Congress to establish a law that would not only give the unions the right to represent federal employees, but would also set up machinery to guarantee an effective collective bargaining process. This thrust culminated with the introduction of the Rhodes-Johnston Bill of 1949 which was a measure to protect the right of unions to represent federal employees.[13] It failed to pass in that year and was debated over the next fourteen years until President Kennedy signed Executive Order No. 10988 into law in January, 1962.

Until 1962 and the signing of E.O. 10988 the doctrine of sovereignty had been used by governmental bodies as a basis of denying the collective bargaining process to public employees. Sovereignty may be defined as the supreme, absolute, and uncontrollable power by which any independent state is governed.[14] In the United States, ultimate power reposes in the people but is exercised for them by their duly elected representatives. These representatives exercise sovereign power

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[13]Wilson R. Hart, Collective Bargaining in the Federal Civil Service (New York: Harper & Row, 1961), p. 163.

[14]Taylor and Witney, Labor Relations Law, p. 504.

within the limits placed on them by constitutions and statutes. Unionization of government workers was viewed as interference with sovereign authority because it could lead to joint determination of wages, hours, and terms and conditions of employment. Union attempts to take away or snare a sovereign power was therefore unlawful.[15]

This attitude seemed to change when President Kennedy was elected in 1960. As a senator, Kennedy had been involved in many unsuccessful attempts to pass the Rhodes-Johnston Bill. In 1961 he appointed a six-member task force to study the problem of employee-management relations in the federal service.[16] The group, headed by Arthur Goldberg, submitted its findings November 30, 1961, and reported in part:

> At the present time, the Federal Government has no Presidential policy on employee-management relations, or at least no policy beyond the barest acknowledgements that such relations ought to exist. Lacking guidance, the various agencies of the government have proceeded on widely varying courses. Some have established extensive relations with employee organizations; most have done little; a number have done nothing. The Task Force is firmly of the opinion that in large areas of the Government we are yet

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[15] Ibid.

[16] Ibid., p. 508.

> to take advantage of this means of enlisting the creative energies of Government workers in the formulation and implementation of policies that shape the conditions of their work.[17]

The Task Force felt that it was improper for the government to fail to extend to its own employees the same privileges enjoyed by workers in private enterprise as a result of federal action. It noted that responsible unions would strengthen and improve the federal service.[18]

In January, 1962, President Kennedy responded to the report by issuing E.O. No. 10988 which established the basic framework within which collective bargaining was to take place in agencies under the executive branch of government. For the first time federal employees had the protected right to join unions and engage in collective bargaining with the federal agencies for whom they worked. These agencies under proper circumstances must recognize and bargain collectively with unions representing government employees. The federal

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[17]Report of the President's Task Force on Employee-Management Relations in the Federal Service, A Policy For Employee-Management Cooperation in the Federal Service (Washington, D.C.: Government Printing Office, 1961), p. iii.

[18]Hanslowe, Emerging Law of Labor Relations, pp. 39-40.

government has attempted to provide organizational and bargaining rights for its employees in essentially the same way as these rights are established for employees in the private sector.[19]

After E.O. 10988 had been in effect for eight years, changes in the order were necessary. In October, 1969, President Nixon issued Executive Order No. 11491 which substantially changed President Kennedy's order. Under the present order, exclusive recognition is now provided for unions representing federal employees. To gain exclusive recognition a union must be selected by a majority of the employees in a bargaining unit through a secret ballot election. Under E.O. 10988, unions were able to secure exclusive recognition by using signed union membership authorization cards.

In another change, under the original order the Civil Service Commission and the various federal agencies were given the power to oversee and implement the policies and procedures contained in E.O. 10988. The new order creates a three-member Federal Labor Relations Council to administer the program, decide major policy matters, and issue rules and regulations. Also, the new order enables the Assistant Secretary of Labor for Labor-

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[19]Taylor and Witney, Labor Relations Law, p. 508.

Management Relations to have the authority to resolve disputes over the composition of bargaining units and representation rights, to order and supervise elections, and to disqualify unions from recognition because of corrupt or undemocratic influences. Formerly these matters were resolved by the particular federal agency and their final judgement was not subject to appeal.[20]

Without a doubt, unions in general have advanced to a prominent place in employee-employer relations in the public sector since the 1800's. In this general context, one specific segment of the public sector will be examined, namely, police departments.

Police Labor Organization

In the early 1900's, policemen in many parts of the country joined labor unions. Boston, Los Angeles, St. Paul, and Jersey City were among the thirty-seven cities in which policemen organized. Failure of wages to keep pace with the rising cost of living is the main reason given for the change in the policemen's attitude toward labor organizations. This movement into unionization was not without difficulty. In Washington, when the policemen were ordered to resign from their union,

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[20] Ibid., p. 513.

they contested the decision in the courts. In Boston, when the police who were members of the Policemen's Union refused to resign, Police Commissioner Edwin V. Curtis announced a campaign to recruit a voluntary police force.[21]

Officers in the Boston Policemen's Union attempted to dispel the fear that their affiliation with the AFL would deter members from doing their duty. "The members of the Boston Policemen's Union intend to do their full duty as police officers in the future as in the past and retain their full membership in the American Federation of Labor."[22] Commissioner Curtis then suspended nineteen officers of the union and this was the signal for a strike of 1500 policemen on September 11, 1919. Without the police force, a twenty-four hour period of rioting, looting, and violence occurred.

On September 12, 1919, Governor Calvin Coolidge sent in 5,000 militiamen to keep order. By September 14, order had been partly restored. Samuel Gompers sought an end to the dispute by a compromise suggesting that the striking policemen return to work and that the

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[21] Philip Taft, Organized Labor in American History (New York: Harper & Row, Publishers, 1964), p. 348.

[22] Ibid.

suspensions be decided later. The Policemen's Union voted to accept this proposal, but Commissioner Curtis and the Governor found the proposal unacceptable.

Neither the commissioner nor the governor would allow rehiring of strikers. The Central Labor Union found the time inopportune for calling a general strike, and the policemen decided not to contest their dismissals in the courts. The calling of the Boston Strike and its defeat halted the growth of police unions. Many of those which existed were forced to dissolve on the threat of dismissal.[23]

Labor unions did not succeed in the police sector. The apparent reason for this was the public sentiment against the use of the word "union". What has seemingly been more popular throughout the police history has been fraternal and benevolent associations. These associations existed in the police service before the turn of the century. There are many local and state groups, some of which are affiliated for professional, educational, and legislative purposes. Local organizations of this kind have two main objectives --to obtain better working conditions and salaries for police officers, and to provide a social outlet for officers

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[23] Ibid., p. 349.

with similar interests. The social aspect is frequently accompanied by educational and benevolent objectives including financial provision for families of officers who are disabled or die.

The first major police organization was founded in 1915 and was named the Fraternal Order of Police (FOP). During the first twenty years of the organization's existence, membership did not increase significantly.[24] At its inception, the FOP's original purposes were directed toward securing civil service protection and bolstering pension systems through lobbying. In time, local FOP lodges expanded their interests to all police monetary items and working conditions as well as emphasizing recreational facilities and activities.[25]

In the 1930's, the FOP began to grow.[26] Today it is the largest national police employee organization and claims 90,000 members in forty-two states. The membership consists of policemen of all ranks as well

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[24]Specific data were not available from the FOP.

[25]J. Joseph Loewenberg, "Policemen and Firemen," in Emerging Sectors of Collective Bargaining, ed. by Seymour L. Wolfbein (Massachusetts: D.H. Mark Publishing Company, 1970), pp. 145-6.

[26]Specific data were not available from the FOP.

as citizens in the local community who are known as associate members.[27] This organization does not consider itself a labor union because it is not affiliated with the AFL-CIO.

The FOP is the largest police labor organization in the state of Rhode Island. There is a lodge in every one of the thirty-nine cities and towns in the state as well as a state lodge to which the state police belong. Even though this organization is not considered to be a union by its members[28] (nor do they desire to be considered as a union), the FOP is the bargaining agent for thirty-two of the thirty-nine cities and towns.

In addition to the FOP, there is a labor organization in Rhode Island which is a union and is known as such. This is the International Brotherhood of Police Officers which was started in 1964. The IBPO was founded in Cranston, Rhode Island by seven policemen who had been evicted from the FOP for strike activity. In the IBPO's seven-year history, it has become the bargaining agent in seven cities and/or towns even

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[27] Ibid.

[28] This fact was stated by the majority of interviewees in this study.

though a portion of the policemen in those communities still retain membership in the FOP.

In 1970, the IBPO became affiliated with the National Association of Government Employees (NAGE), an independent union, and has now started to organize police officers in other states of the United States.[29]

As the bargaining agents for the policemen in the state, one of the functions that concerns each of these organizations is compulsory arbitration.

Comparison of State Compulsory Arbitration Statutes[30]

Since the first binding, compulsory arbitration statute covering employees in the public sector became law in Wyoming on May 22, 1965, five other states have met the need for this type of legislation including: Pennsylvania (1968), Rhode Island (1968), Michigan (1969), Vermont (1970), and Hawaii (1970). Although Wyoming's law and Vermont's law cover only fire fighters, the other five cover all public employees. All of the

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[29]Although the word 'International' was in the title of this organization, this union was operated as a local. This action taken in 1970 was similar to a local affiliating with an international.

[30]The information provided in this section was obtained from the statutes in each of the six states.

statutes are permanent except that of Michigan, which is an experimental law scheduled to expire on June 30, 1972 (see Appendix A).

Following is a list of the states that have enacted compulsory, binding arbitration concerned with police. They are listed according to the effective date of each law. The basic coverage of each statute is noted.

Wyoming - Effective May 22, 1965 - The sole public employee bargaining law in Wyoming covers only fire fighters employed by any regularly constituted fire department in any city, town, or county and provides for binding, compulsory arbitration to resolve impasses arising in fire fighters' negotiations.

Pennsylvania - Effective June 24, 1968 - Authorizes collective bargaining between policemen or firemen and their public employers, provides for arbitration, and requires compliance with collective bargaining agreements and findings of arbitrators.

Rhode Island - Effective September, 1968 - There are five public employee bargaining statutes

in the State of Rhode Island. Separate laws cover state employees, municipal employees and teachers. In addition, two nearly identical statutes not only grant bargaining rights to firemen and policemen, but also provide for compulsory, binding arbitration to resolve impasses in negotiations.

Michigan - Effective October 1, 1969 - The comprehensive Public Employment Relations Act in Michigan extends bargaining rights to all public employees except, as dictated by the constitution, those in the state classified service. An experimental law which will expire June 30, 1972, provides binding arbitration to resolve impasses arising in police and firemen's negotiations.

Vermont - Effective July 1, 1970 - The sole public employee bargaining law in Vermont covers only fire fighters employed by any regularly constituted fire department in any city, town, or county and provides for binding, compulsory

arbitration to resolve impasses arising in fire fighters' negotiations.

Hawaii - Effective July 1, 1970 - The comprehensive bargaining statute in Hawaii covers all public employees. This law grants the right of these employees to bargain collectively and provides for binding, compulsory arbitration to resolve impasses.

Although these six statutes are concerned with binding, compulsory arbitration in the public sector, there are only two common factors in them all. First, each law provides that an award which is rendered by the majority of the compulsory arbitration board members dealing with police departments is binding on any and all parties. Second, each law provides for a compulsory arbitration board composed of three members. The board is established as follows: the bargaining agent and the corporate authority each select and name one arbitrator and immediately notify each other in writing of the name and address of the person selected. These two arbitrators then select and name a third arbitrator.

Differences among the six statutes on a variety of subjects include: the selection of the neutral member of the compulsory arbitration board, the

determination of an impasse in negotiations, the payment of arbitration costs, and the appeal procedures of the awards.

Selection of Neutral Arbitrator

Since the management and union arbitrators are required to select the neutral arbitrator, the situation often arises in which they are unable to agree on the selection of the third member. In each of the six states, provisions have been made for the selection of the neutral arbitrator should such a situation occur.

In Wyoming, the neutral will be selected by a district judge in the community; in Pennsylvania, the neutral will be chosen from a list of three names given to the parties by the American Arbitration Association; in Rhode Island, the Chief Justice of the Supreme Court in Rhode Island will appoint a Rhode Island resident; in Michigan, the Chairman of the Michigan Employment Relations Commission will select the neutral; in Vermont, the Commissioner of Labor and Industry will appoint the neutral; and in Hawaii, the Hawaiian Public Employment Relations Board will make the choice of the third member.

Determination of Impasse

With respect to the question of when an impasse

really has occurred, the states have devised the following methods for submitting the issue to arbitration.

The states of Michigan, Vermont, and Hawaii have decided an impasse occurs with the passage of a specified time period (usually thirty days) after a dispute has been submitted to mediation and fact-finding. At the end of this time period, if the dispute has not been resolved, the issue will be resolved by an arbitration board. The states of Rhode Island and Wyoming define impasse as the party's inability to negotiate a settlement within thirty days of the first meeting. After the thirty day time period has passed, the issue automatically goes to arbitration. The Pennsylvania statute specifies that the failure of a legislative body to approve a negotiated agreement is considered to be an impasse and must be submitted to binding, compulsory arbitration.

Payment of Arbitration Costs

The statutes in Michigan, Rhode Island, Vermont, and Hawaii provide that the parties involved must bear the costs of arbitration equally. In the state of Pennsylvania the public employer pays all costs except those for the arbitrator representing the employees.

The statute in the state of Wyoming provides the arbitration board with the responsibility and authority of determining the cost allocation in all disputes.

Appeal of Awards

Provisions for the appeals of awards are made in Rhode Island, Vermont, Wyoming, and Michigan. The grounds for such appeals are limited to an arbitration board exceeding its jurisdiction or participating in fraud or misrepresentation to affect the award. Michigan also permits appeals if the order is unsupported by competent, material, and substantial evidence on the whole record. The Pennsylvania statutes deny any right of appeal, while the subject is not discussed in the Hawaiian statute.

Rhode Island Policemen's Arbitration Statute

Since 1963 policemen in the State of Rhode Island have had the expressed legal right to organize and join unions for the purpose of bargaining collectively over wages, rates of pay, and other terms and conditions of employment. The Policemen's Arbitration Act of 1963 states,

> . . . the protection of the public health, safety, and welfare demands that the full-time policemen of any paid police department in any

> city or town not be accorded the right to strike or engage in any work stoppage or slowdown. It is hereby declared to be public policy of this state to accord to the full-time policemen of any paid police department in any city or town all of the rights of labor other than the right to strike, or engage in any work stoppages or slowdown. To provide for the exercise of these rights, a method of arbitration of disputes is hereby established.[31]

Under this act the policemen have the right to join unions. The statute made it the obligation of the city or town, acting through its corporate authorities, to meet and confer in good faith with the representative of the bargaining agent. Within ten days after receipt of a written request from this agent, the parties must meet for the purpose of collective bargaining. Should any impasse be reached within thirty days from the start of these negotiations, the unresolved issues must be submitted to arbitration.

Within five days from the expiration of the thirty-day period, each of the two parties have to select their arbitrator. Within ten days after the thirty-day period, the impartial arbitrator must be selected. This tripartite arbitration board then must start the hearings within ten days after the impartial

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[31] General Laws of Rhode Island 1956, Reenactment of 1969, Vol. 5 (New York: Bobbs-Merrill Co., Inc.), pp. 376-377.

arbitrator has been named and must be concluded within twenty days from commencement. An additional ten days is granted after the conclusion of the hearings for the arbitrators to make a written report of their findings and a written award which is not to exceed one year in duration.

The arbitrators, in conducting the hearings and rendering their decision, must partially base the award on the facts presented. Other factors must be given weight in arriving at a final decision. These factors as outlined in the statute include:[32]

> (1) Comparison of wage rates or hourly conditions of employment of the police department in question with prevailing wage rates or hourly conditions of employment of skilled employees of the building trades and industry in the local operating area involved.
>
> (2) Comparison of wage rates or hourly conditions of employment of the police department in question with wage rates or hourly conditions of employment of police departments in cities or towns of comparable size.
>
> (3) Interest and welfare of the public.

In 1968 an amendment to the Policemen's Arbitration Act was enacted. The only difference between the two laws was that the new law made the arbitration board's award binding on any and all parties, and on any and

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[32] Ibid., p. 380.

all matters. The 1963 law considered the arbitrators' award to be advisory.

In a discussion with several senators involved with both laws it was determined that the purpose of the first law was to give the policemen rights which were similar to those of employees in the private sector. The purpose of the 1968 statute was to give the policemen not only rights similar to those of industry, but to have a law that would have some means of enforcement.

It was further explained that under advisory arbitration, members of the corporate authority would not acknowledge the awards. The reason given for this was as follows: if the award suggested an increase in monetary expenditures, this would automatically mean an increase in taxation to the general public. This reasoning is substantiated by the fact that when the state legislature was discussing the possibility of making the 1963 law binding, thirty-eight of the thirty-nine municipal chiefs[33] opposed the proposal. The reasoning given was that the arbitration board could be made up of all out-of-staters and these would be the

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[33]Municipal chiefs are the highest elected officials in the cities and towns. In the cities, the chief's title is Mayor, and in the towns, the chief's title is Town Council President.

persons responsible for the setting of tax rates in the communities.

In order to alleviate this problem, the municipal chiefs offered as a compromise, a labor court. This court would consist of a specified number of members and all would be residents of Rhode Island. The legislators decided that this proposal was not acceptable because of the lack of competent arbitrators in the state. In September, 1968, the legislature passed the binding, compulsory arbitration law.

Analysis of Law

The 1968 law has been in effect for three years and in this time period, two problems have re-occurred. The first problem has been the comparisons that must be made between policemen's rates and the rates of journeymen in the building trades. Most of the arbitrators in Rhode Island cases maintain that conclusions drawn by the comparison of unlike occupations in different sectors of the economy are lacking in substance and are unpersuasive.[34] If comparisons have to be made other than between police departments, it might be more feasible to compare occupations within the public

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[34]There is a possibility that a comparison between the policeman in the public sector and the security guard in the private sector may prove to be valuable.

sector. In so doing, those persons in the two sectors of our economy (public and private) could be compared separately and perhaps more equitably.

The second problem has been concerned with the number of unresolved issues. What happens is that the two sides bargain collectively over a number of issues and at some point reach an impasse. Instead of sending just those unresolved issues to the arbitration board, each side reverts to the original position on all issues and all issues go to the tripartite panel. This has posed a monumental problem in terms of time and money spent. Possible solutions for this problem will be offered later in this study.

Summary

Unionization of federal employees existed as early as 1800 in naval yards. The first legislation with reference to federal policy toward employee organizations was the Pendleton Act (commonly known as the Civil Service Act) which was passed in 1883. Under this act, only Congress had the authority to regulate wages, hours, and other terms and conditions of employment.

In 1912 Congress passed the Lloyd-La Follette Act, which became the basis for the principle that federal

employees had the right to join any organization that did not assert the right to strike against the government.

President Kennedy furthered the rights of federal employees when he signed Executive Order 10988 in January, 1962. This made it possible for federal employees to have the protected right to join unions and engage in collective bargaining with the federal agencies for whom they worked.

Police unionization began in the early 1900's. The Fraternal Order of Police was founded in 1915, and began to grow in the 1930's. The FOP today is the largest national police employee organization and claims 90,000 members in forty-two states.

Only six states have statutes that provide for binding arbitration. A comparison of each is made in this chapter. The Rhode Island Policemen's Arbitration Statute is discussed in detail.

C H A P T E R I V

PROCEDURES AND METHOD OF INVESTIGATION

This chapter is concerned primarily with the methodology used in this study. The topics covered are:

(1) definitions of the words or phrases used in the study;

(2) hypotheses tested and their relationship to the study;

(3) methodology used in the study; and

(4) general information on the sample used.

Definitions

Each of the key words and/or phrases used in this study shall have the definitions as explained in this section. The purpose of these definitions is to enable readers to understand the hypotheses and methodology utilized throughout the study. To assist in a common understanding of this report, a uniform definition of the terms used in the study is critical.

Policemen

"The term 'policemen' shall mean the full-time police from the rank of patrolman up to and including the rank of chief, including policewomen of any

particular police department in any city or town within the state."[1]

Employee Organization

Employee organization is defined as any organization of any kind in which policemen participate and which exists for the primary purpose of dealing with the corporate authority concerning grievances, labor disputes, wages, hours, and other terms and conditions of employment of policemen.[2]

Exclusive Representation

Exclusive representation means that the employee organization has the right to be the collective bargaining agent of all policemen in an appropriate bargaining unit without discrimination and without regard to employee organization membership.[3]

Representative

Representative means any individual or individuals

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[1]General Laws of Rhode Island 1956, Reenactment of 1969. (Pocket Supplement Vol. 5 New York: Bobbs-Merrill Co., Inc.), p. 4816.

[2]General Laws of Hawaii 1970. Washington, D.C.: The Bureau of National Affairs, Inc., 1970, p. 13.

[3]Ibid.

acting for the corporate authority or the policemen and shall include employee organizations.

Corporate Authority

"The term 'corporate authority' shall mean the proper officials within any city or town whose duty or duties it is to establish the wages, salaries, rates of pay, hours, working conditions of employment of policemen, whether they be the mayor, city manager, town manager, town administrator, city council, town council, director of personnel, personnel board or commission or by whatever other name the same may be designated, or any combination thereof."[4]

Supervisory Employee

Supervisory employee means any individual having authority in the interest of the corporate authority to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other policemen, or the responsibility to assign work to and direct them, or to adjust their grievances, or recommend such actions, if the exercise of such authority is not

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[4]General Laws of Rhode Island 1956, Reenactment of 1969. (Pocket Supplement Vol. 5 New York: Bobbs-Merrill Co., Inc.), p. 4816.

merely routine or clerical, but requires independent judgment.[5]

Collective Bargaining

"Collective bargaining means the performance of the mutual obligation of the corporate authority and the exclusive representative to meet at reasonable times, to confer and negotiate in good faith, and to execute a written agreement with respect to wages, hours, and other terms and conditions of employment, except that by any such obligation neither party shall be compelled to agree to a proposal, or be required to make a concession."[6]

Labor Dispute

The term labor dispute includes any controversy between the corporate authority and the policemen or their representatives concerning terms, tenure or conditions of employment or concerning the association or representation of persons in negotiating, fixing,

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[5]General Laws of Hawaii 1970, p. 13.

[6]Ibid. For additional information on definitions of collective bargaining, see Section 8 (d), Labor-Management Relations Act, 1947 or C. Wilson Randle and Max S. Wortman, Jr., Collective Bargaining (2nd ed.; Boston: Houghton Mifflin Company, 1966), pp. 5-8.

maintaining, changing, or seeking to negotiate, fix, maintain or change terms or conditions of employment.[7]

Impasse

Impasse means the failure of a corporate authority and an exclusive representative to achieve agreement in the course of collective bargaining.

Strike

Strike is described as a policeman's refusal, in concerted action with others, to report for duty, or his wilful absence from this position, or his stoppage of work, or his abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in the conditions, compensation, rights, privileges, or obligations of public employment.[8]

Fact-Finding

Fact-finding is defined as the identification of the major issues in a particular impasse, review of the positions of the parties and resolutions of factual

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[7]Rhode Island State Labor Relations Act, (Rhode Island: Rhode Island State Labor Relations Board), p. 3.

[8]General Laws of Hawaii 1970, p. 13.

differences by one or more impartial fact-finders, and the making of recommendations for settlement of the impasse.

Mediation

Mediation is the assistance by an impartial third party to reconcile an impasse between the corporate authority and the exclusive representative regarding wages, hours, and other terms and conditions of employment through interpretation, suggestion, and advice to resolve the impasse.[9]

Arbitration

Arbitration is the procedure whereby parties involved in an impasse mutually agree to submit their differences to a third party for a final and binding decision.

Compulsory Arbitration

Compulsory arbitration is the procedure whereby public law requires the corporate authority and the policemen to submit their differences to a third party for a final and binding decision, and to prohibit work stoppages.

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[9]General Laws of Hawaii 1970, p. 13.

Compulsory Arbitration Board

Compulsory arbitration board means the panel of three persons who will meet and decide on any impasse between the corporate authority and the exclusive representative.

Operational Procedures

Operational procedures mean the precise method of handling arbitration cases and the mode of internal workings of the board. The internal workings of the board shall be considered to be formal if the proceedings of the board's decision-making process are similar to those used in a court of law. Otherwise the internal workings shall be classified as informal.

Type of Issue

Type of issue means the distinction between wage issues and non-wage issues. Wage issues shall include anything dealing with monetary values such as the determination of wages, hours and work scheduling, pension plans and health and welfare plans. Non-wage issues shall include anything dealing with non-monetary values such as seniority, discipline, and job security.

Form of Government

Form of government means the distinction made by

the State of Rhode Island as to the municipalities classified as cities and those classified as towns. Those municipalities which have been designated as cities are classified as such upon the request of the people residing within certain geographical boundaries, contingent upon approval by the state legislature.

General Hypotheses

This section includes the general hypotheses and the operational hypotheses which will be used to consider some of the effects of compulsory arbitration boards upon police labor-management relations in the State of Rhode Island.

Hypothesis I: The more urban the geographic location, the more likely a compulsory arbitration board will be used in settling disputes between the union and the corporate authority.

According to Loewenberg, the resolution of impasses in negotiations by compulsory arbitration in the state of Pennsylvania did not seem to be related to the size of the locality. There is some evidence that the resolution of impasses in some localities were obtained

through compulsory arbitration.[10] In order to determine whether or not impasses have been resolved by compulsory arbitration in the State of Rhode Island, the following operational hypotheses were established:

> Operational Hypothesis I: There is no statistically significant relationship between the population in a geographic location and the utilization of a compulsory arbitration board.
>
> Operational Hypothesis II: There is no statistically significant relationship between the form of government in a geographic location and the utilization of a compulsory arbitration board.

Hypothesis II: The greater the proportion of union members in the bargaining unit, the greater the chances of using the compulsory arbitration board.

Professor Loewenberg also indicated that not only is there an absence of a relationship between the size of the city (and/or town), and an impasse being resolved

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[10] J. Joseph Loewenberg, "Compulsory Arbitration for Police and Fire Fighters in Pennsylvania in 1968," Industrial and Labor Relations Review, Volume 23, Number 3 (April, 1970). p. 369.

by compulsory arbitration, but there was no indication of any relationship between the size of the local police force and the use of a compulsory arbitration board.[11]

In addition to this relationship brought forth by Professor Loewenberg, a condition which also should be examined would be the type of union security that exists within a particular police department. If there were very few union members in the bargaining unit, the union may not be powerful enough to force an issue to compulsory arbitration. This kind of relationship will be examined by means of operational hypothesis IV.

When compulsory arbitration has to be used, information regarding the types of proceedings must be known for the purpose of preparing for the arbitration hearing--the event where cases are won or lost. Types of proceedings would be defined as the formal proceedings and the informal proceedings.

The operational hypotheses which will be used to test this general hypothesis are as follows:

> Operational Hypothesis III: There is no statistically significant relationship between the number of full-time policemen in a geographic

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[11] Ibid.

location and the utilization of a compulsory arbitration board.

Operational Hypothesis IV: There is no statistically significant relationship between the number of members in a bargaining unit and the utilization of a compulsory arbitration board.

Operational Hypothesis V: There is no significant relationship between the number of members in the bargaining unit and the formal operational procedures the compulsory arbitration board will use.

Operational Hypothesis VI: There is no significant relationship between the type of issue to be decided and the formal operational procedures the compulsory arbitration board will use.

Hypothesis III: The presence of a compulsory arbitration board has had an effect on the labor-management relations in those communities that have had an experience with a compulsory arbitration board.

According to Northrup, no institution or method of determining conditions of work is, or can be, perfectly satisfactory to everyone. But few things are more important to both the individual and society than the methods of determining the conditions under which individuals buy and sell each other's and their own labor. The successful determination of the conditions under which these individuals must operate lies in whether or not a form of emergency strike legislation could be devised which does not inhibit collective bargaining. Professor Northrup's evidence indicates that compulsory arbitration: (1) does not insure peace in a working environment, but can breed strikes; (2) enhances union power and growth, especially through political action; and (3) discourages collective bargaining.[12]

To attempt to determine if these conditions exist in police departments in the State of Rhode Island the following operational hypotheses will be used in conjunction with later ones to test the general

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[12]Herbert R. Northrup, Compulsory Arbitration and Government Intervention in Labor Disputes (Washington, D.C.: Labor Policy Association, Inc., 1966), pp. 179-180.

hypothesis:

Operational Hypothesis VII: Policemen feel that the compulsory arbitration board has affected the collective bargaining process.

Operational Hypothesis VIII: Members of the corporate authority feel that the compulsory arbitration board has affected the collective bargaining process.

Price has indicated that a board's impact on morale could be determined to the extent to which individual motives are satisfied by the organization. Some customary measures of morale are turnover, absenteeism, accidents, tardiness, and verbal statements of satisfaction.[13]

The following operational hypotheses will be used to examine this aspect of the labor-management relations noted in the general hypothesis:

Operational Hypothesis IX: The percentage increase in wages has been greater subsequent to to the enactment of the compulsory arbitration

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[13]James L. Price, "The Impact of Governing Boards on Organizational Effectiveness and Morale," Administrative Science Quarterly, Volume 8, Number 3 (December, 1963), pp. 302-363.

law than prior to the law.

Operational Hypothesis X: The grievance rate (in per cent) has been greater subsequent to the enactment of the compulsory arbitration law than prior to the law.

Methodology

This section describes the sources of data and the methods used in this study. In addition, the procedures for analyzing the data will be presented. The section will be divided into the following categories: (1) Sources of data; (2) Methods for obtaining data; and (3) Analysis of data.

Sources of Data

There will be two primary sources of data which will be used in this survey. The first source will be the Statutes in the State of Rhode Island. Section Number Seven of the General Laws of the State of Rhode Island dealing with Labor and Industrial Relations will be used to obtain information concerning compulsory arbitration.

The second primary source of data will be persons that have had experience with compulsory arbitration boards in their community. The persons to be included

are as follows:

(1) The top ranking officer of the policeman's association in each community in which a compulsory arbitration board has functioned;

(2) The top ranking official of the corporate authority in each community in which a compulsory arbitration board has functioned;

(3) The personnel director in each community in which a compulsory arbitration board has functioned; and

(4) Each of the three arbitrators who decided the issue or issues in each community.[14]

Methods for Obtaining Data

The methodological procedure consists of three parts. First, there will be a detailed analysis of the state law which provides for the implementation of the compulsory arbitration board. The coverage of this law

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[14]According to state law, within twenty-five calendar days from the date of the first meeting between the bargaining agents and the corporate authority, these two parties shall each select and name one arbitrator. These two arbitrators so selected and named shall agree upon and select and name a third arbitrator. Thus the compulsory arbitration board consists of three persons: one considered to be the union arbitrator, one considered to be the corporate authority arbitrator, and one considered to be the neutral arbitrator.

regarding compulsory arbitration is included in the General Laws of the State of Rhode Island.

Second, using structured questionnaires (see Appendix B), each of the selected persons will be interviewed. It should be noted that each person will be interviewed with a questionnaire devised especially for persons in that category. The questions for each category are worded so as to facilitate analysis of the hypotheses.

Analysis of Data

The data which are obtained from the questionnaire will be used to test each of the operational hypotheses.[15]

Twelve communities in the State of Rhode Island have used compulsory arbitration boards. A general analysis will be based on specific answers received to the questionnaires. Since the same questions[16] are asked of the different types of interviewee the various responses may be compared which may enable generalizations to be made.

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[15]For an analysis of the questions that apply to each hypothesis, see Appendix C.

[16]See Appendix C.

General Information

The compulsory binding arbitration law concerning police departments in the State of Rhode Island and Providence Plantations was enacted in September, 1968. From this date to March 31, 1971, compulsory binding arbitration has been implemented fourteen times in twelve communities. Of these twelve locations, seven were classified as cities with a population ranging from 18,716 to 179,213 and a police force consisting of 36 to 414 total law enforcement officers respectively. In addition, two of these cities have used binding arbitration more than once. Five of the locations were classified as towns with a population ranging from 2,911 to 26,605 and a police force ranging from seven to thirty respectively.

In the State of Rhode Island there are two organizations to which policemen may belong--one organization is the Fraternal Order of Police, commonly known as the FOP. The other is the International Brotherhood of Police Officers, often known as the IBPO. In eight of the twelve communities studied, the FOP was the recognized bargaining agent for the policemen, while the IBPO represented the policemen in the other four.

In five of the twelve communities, all of the law

enforcement officers were members of either the FOP or the IBPO. The remaining seven communities had at least one non-member of the union in the police department. In six of these seven cases the chief was considered to be the non-member and was excluded from membership by agreement between labor and the corporate authority. In addition to the chief's exclusion, two communities had other high ranking members of the police force also excluded by agreement.

Finally, in four communities of the twelve, at least one member of the rank and file did not wish to be a member of any bargaining unit and was excluded.

Summary

Included in this chapter is a presentation of the definition of terms used throughout the study, the general hypotheses, the operational hypotheses, and the procedures and method of data collection.

C H A P T E R V

RESULTS OF THE STUDY

The purpose of this chapter is to describe the results of the study. The three sections in this chapter include: (1) response to survey; (2) results related to the hypotheses; and (3) results related to the opinion questions regarding binding, compulsory arbitration.

Response to Survey

The twelve communities which have been involved with binding, compulsory arbitration are: Bristol, Central Falls, Cranston, Cumberland, Jamestown, North Providence, Pawtucket, Providence, Tiverton, Warwick, West Warwick, and Woonsocket. Table 5.1 indicates the form of government, population statistics, and number of police officers for each locality.

The small size of Rhode Island made it possible to interview all the parties that had been involved in binding, compulsory arbitration in each community. Of the total of sixty-five persons, sixty-four agreed to be interviewed for a 98.4 per cent response (see Table 5.2). The only person that did not provide time for an interview was a police chief (see Table 5.3).

TABLE 5.1

COMMUNITIES SURVEYED IN THE STUDY OF THE OPERATIONS OF POLICE COMPULSORY ARBITRATION BOARDS IN RHODE ISLAND, 1971

Community	Form of Government	Population	Number of Police Officers
Bristol	Town	17,860	24
Central Falls	City	18,716	36
Cranston	City	73,037	105
Cumberland	Town	26,605	30
Jamestown	Town	2,911	7
North Providence	Town	24,337	31
Pawtucket	City	76,984	153
Providence	City	179,213	414
Tiverton	Town	12,559	15
Warwick	City	83,694	150
West Warwick	Town	24,323	38
Woonsocket	City	46,820	101

TABLE 5.2

RESPONSE OF PERSONS TO SURVEY QUESTIONNAIRE IN THE STUDY OF THE OPERATIONS OF POLICE COMPULSORY ARBITRATION BOARDS IN RHODE ISLAND, 1971

Person	Number	Percent
Respondent	64	98.4
Non-respondent	1	1.6
Total	65	100.0

TABLE 5.3

RESPONSE OF COMMUNITIES TO STATISTICAL DATA IN THE STUDY OF THE OPERATIONS OF POLICE COMPULSORY ARBITRATION BOARDS IN RHODE ISLAND, 1971

Community	Number	Percent
Respondent	11	91.5
Non-respondent	1	8.5
Total	12	100.0

In one other community some difficulty was encountered in gathering statistical data. Turnover rates and absentee rates could not be obtained because the information would have to have been abstracted from each policeman's confidential personal file. Since the grievance rates and the salary rates in this community were not classified, they were provided for the study.

In this study the following persons were to be interviewed:

(1) The top ranking officer of the policemen's association;

(2) The top ranking official of the corporate authority;

(3) The personnel director;

(4) Each of the three arbitrators involved with the decisions.

No difficulties were encountered in interviewing the twelve officers of the policemen's association or the twelve officials of the corporate authority. Only five of the twelve communities had personnel directors--all of whom were interviewed. In six communities that did not have a personnel director, the chief of police was interviewed using the personnel directors' questionnaire. In the seventh community, the police chief did not

cooperate.

Of the fourteen binding arbitration cases heard in the twelve communities, nine persons were employed as corporate authority arbitrators. One of the nine heard five cases, another heard two, and the remaining seven heard one each. There were seven union arbitrators, one person having served on five cases, another person having served on four, and the remainder on one each. Eight neutral arbitrators were employed, two of whom were appointed three times, two others were appointed twice, and the four remaining once each (see Table 5.4).

Only one arbitrator was named in two capacities. In one case he was appointed by the union while in another he was a neutral. This practice is not encouraged by any parties since labels are not easily attached to such individuals. Unions, as well as corporate authorities, prefer to choose someone they are able to trust and who will work diligently for their interests. From observations in this study, it may well be very difficult for this person to be selected as an arbiter again as several interviewees felt that he could not be trusted by the parties.

The occupations of the arbiters differ widely. Ten (42 per cent) of the twenty-four total arbitrators

TABLE 5.4

NUMBER OF CASES HEARD BY ARBITRATORS
IN RHODE ISLAND, 1971

Arbitrator*	Number of Cases Heard				
	1	2	3	4	5
Corporate Authority	7	1	0	0	1
Union	5	0	0	1	1
Neutral	4	2	2	0	0

*One arbitrator was named in two capacities.

interviewed were attorneys, seven (29 per cent) were associated with the teaching profession, three (13 per cent) were businessmen, two (8 per cent) were members of the clergy, and two (8 per cent) were full-time arbiters.

Results Related to the Hypotheses

The results of the survey as related to the hypotheses set forth in Chapter IV will be discussed in this section. In each case, the original working hypothesis will be stated followed by an analysis of the data used to test the hypothesis. On completion of the analysis of the working hypotheses, conclusions will be drawn on the general hypotheses.

Population in a Geographic Location

Operational Hypothesis I: There is no statistically significant relationship between the population in a geographic location and the utilization of a compulsory arbitration board.

Using the Chi-square test of independence, there is a statistically significant relationship between geographic location and the utilization of a compulsory arbitration board.[1] Operational hypothesis one is

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[1]All Chi-square tests of independence were run at the .95 level of significance.

therefore rejected.

The contingency coefficient used to determine the degree of association between two variables indicates that these two are closely related[2] (see Table 5.5).

Form of Government

Operational Hypothesis II: There is no statistically significant relationship between the form of government in a geographic location and the utilization of a compulsory arbitration board.

There is a statistically significant relationship between the form of government and the utilization of a compulsory arbitration board. Operational hypothesis two is rejected.

The contingency coefficient of .433 indicates that the degree of association between these two variables is strong (see Table 5.6).

Location of Compulsory Arbitration Usage

There are two of a possible nineteen localities

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[2]C = .546. In a two-by-two contingency table, the maximum value of C is .707. For information on the maximum value of C, see: Sidney Siegal, Nonparametric Statistics for the Behavioral Sciences (New York: McGraw-Hill Book Company, Inc., 1956), p. 195-202.

TABLE 5.5

ANALYSIS OF THE POPULATION SIZE AND THE UTILIZATION OF COMPULSORY ARBITRATION BOARDS IN RHODE ISLAND, 1971

N=39

Utilization of Board	Population Size		Total
	0-19,999	20,000 & Over	
Yes	4	8	12
No	22	5	27
Total	26	13	39

$\chi^2 = 16.6$ d/f=1

$\chi^2.95 = 3.84$ C=.546; C_{max}=.707

Since the derived value of the Chi-square is less than the value of Chi-square at the .95 level of significance, the hypothesis of the independence between the population in a community and the utilization of a compulsory arbitration board is rejected.

TABLE 5.6

ANALYSIS OF THE FORM OF GOVERNMENT AND THE UTILIZATION OF COMPULSORY ARBITRATION BOARDS IN RHODE ISLAND, 1971

N=39

Utilization of Board	Form of Government		Total
	City	Town	
Yes	6	6	12
No	2	25	27
Total	8	31	39

$\chi^2=8.96$ d/f=1

$\chi^2.95=3.84$ C=.433; $C_{max}=.707$

Since the derived value of the Chi-square is less than the value of Chi-square at the .95 level of significance, the hypothesis of the independence between the form of government in a community and the utilization of a compulsory arbitration board is rejected.

with a population figure of under 15,000 that have gone to binding arbitration (see Appendix D, Table 1). Binding arbitration has been used in 10 per cent of the communities in this population class to settle contract disputes with the police departments. In communities that list the population size as 15,000 and over, 50 per cent have used binding arbitration. In communities with a population of over 50,000, 33 per cent have used binding, compulsory arbitration.

Moreover, six of the eight city police departments in Rhode Island have resorted to binding, compulsory arbitration (75 per cent), whereas only six towns of a possible thirty-one (19 per cent), have utilized binding arbitration.

These data and the statistical data previously reported lead to the rejection of operational hypotheses numbers one and two, and would tend to support general hypothesis number one, which stated: The more urban the geographic location, the more likely a compulsory arbitration board will be used in settling disputes between the union and the corporate authority.

What these data mean to Rhode Island in terms of practical significance is that the cities may well be used as the pattern setters for the towns. If the union

is able to concentrate its pressure against the major cities, which seem to be most susceptible to agreement on favorable terms, it may be able to use those terms as the pattern for the smaller localities. With the pattern set by the cities, the burden may be placed on other communities to show why they cannot grant terms at least as favorable. If some less prosperous communities can indeed make such a showing, the terms may be lessened to a degree, but only after rigorous bargaining.

Full-Time Policemen

Operational Hypothesis III: There is no statistically significant relationship between the number of full-time policemen in a geographic location and the utilization of a compulsory arbitration board.

An analysis of the data indicates that there is a significant relationship between the number of full-time policemen in a geographic location and the utilization of a compulsory arbitration board. Operational hypothesis number three is rejected.

In addition, some relationship is indicated between these two variables as the contingency coefficient equals .370 (see Table 5.7).

TABLE 5.7

ANALYSIS OF THE NUMBER OF POLICEMEN IN A COMMUNITY AND THE UTILIZATION OF COMPULSORY ARBITRATION BOARDS IN RHODE ISLAND, 1971

N=39

Utilization of Board	Number of Policemen		Total
	0-34	35 & Over	
Yes	5	7	12
No	22	5	27
Total	27	12	39

χ^2=6.14 d/f=1

χ^2.95=3.84 C=.370; C_{max}=.707

Since the derived value of Chi-square is less than the value of Chi-square at the .95 level of significance, the hypothesis of the independence between the number of policemen in a community and the utilization of a compulsory arbitration board is rejected.

Bargaining Unit

Operational Hypothesis IV: There is no statistically significant relationship between the number of members in a bargaining unit and the utilization of a compulsory arbitration board.

There is a statistically significant relationship between the number of members in a bargaining unit and the utilization of a compulsory arbitration board, thus leading to the rejection of operational hypothesis number four.

The contingency coefficient of .410 indicates that there is some relationship between these two variables (see Table 5.8).

Members Versus Operational Procedures[3]

Operational Hypothesis V: There is no significant relationship between the number of members in the bargaining unit and the formal operational procedures the compulsory arbitration board will use.

To determine whether or not a relationship existed between the number of members in a bargaining unit and

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[3]See Appendix D, Tables 2 and 3.

TABLE 5.8

ANALYSIS OF THE NUMBER OF MEMBERS IN A COMMUNITY'S POLICE LABOR ORGANIZATION AND THE UTILIZATION OF COMPULSORY ARBITRATION BOARDS IN RHODE ISLAND, 1971

N=39

Utilization of Board	Number of Members		Total
	0-34	35 & Over	
Yes	5	7	12
No	23	4	27
Total	28	11	39

$\chi^2 = 7.67$ d/f=1

$\chi^2.95 = 3.84$ C=.410; C_{max}=.707

Since the derived value of the Chi-square is less than the value of Chi-square at the .95 level of significance, the hypothesis of the independence between the number of members in a police labor organization and the utilization of a compulsory arbitration board is rejected.

the formality of operational procedures used by the arbitration board, the arbitrators employed in each of the communities were questioned as to the degree of formality used by each board. The results indicate that 91.6 per cent of the arbitrators selected by the union perceived the operational procedures followed by the board (that is, the swearing in of witnesses, presentation of facts, evidence that would be accepted, and the procedures of the hearings) as formal, 71.4 per cent of the neutral arbitrators perceived the procedures as formal, and only 33.3 per cent of the corporate authority arbitrators felt this way. In two of the twelve communities all three arbitrators indicated the procedures were formal. Two out of three arbitrators in four communities indicated that their procedures followed a formal pattern, while two out of three arbitrators stated informal operations existed in five communities. In one community all arbitrators stated that the operational procedures were of an informal nature.

It appears from these data that the degree of formality or informality as indicated by each of the arbitrators is definitely a matter of perception. It is possible that the union arbitrators, after witnessing

loosely run union meetings, perceive the arbitration proceedings to be formal in contrast to such meetings. The corporate authority arbitrator may be used to operating very formally and his perception of the proceedings may be one of informality.

Issues Versus Operational Procedure

Operational Hypothesis VI: There is no significant relationship between the type of issue to be decided and the formal operational procedures the compulsory arbitration board will use.

Identical results are obtained with respect to operational hypothesis number six. In every instance where binding, compulsory arbitration was implemented, a wage issue was decided. In addition to the wage issue, non-wage issues also were decided in each community.[4] In every case, regardless of the type of issue the arbitrators' perception of the operational procedures was identical to the views portrayed for operational hypothesis number five.[5] The data tend to indicate that there is no significant relationship

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[4]Neither wage nor non-wage issues were investigated in depth.

[5]See Appendix D, Table 3.

between the type of issue to be decided and the operational procedures the compulsory arbitration board will use.

Membership and Utilization of Arbitration

As noted, there is a statistically significant relationship between the number of full-time policemen in a geographic location and the utilization of a compulsory arbitration board and the number of members in a bargaining unit and the utilization of a compulsory arbitration board. In addition there is evidence to indicate that general hypothesis number two should be accepted. It stated: The greater the proportion of union members in the bargaining unit the greater the chances of using the compulsory arbitration board.

The practical significance of these findings for Rhode Island is that power relations do exist in the collective bargaining process. According to Selekman, et. al.,

> It is by mobilizing their power, economic, political, and moral--that workers and their leaders compel management in the first instance to deal with them and then to grant, in whole or in part, the demands which they make upon the corporation. It is by countering with power--economic, political, and moral--that corporate management determines how much and to what extent it will deal with its employees through organ-

ized unions.[6]

This is exactly what has been happening in Rhode Island since the enactment of the compulsory arbitration statute. The police organizations know that they now have a powerful tool and the corporate authority seems less able to use it as efficiently.

If the corporate authority and the union do not recognize these power components as the critical elements in determining their relationships with each other, they are being naive and run the risk of jeopardizing effective positive relations. This is not to say that other values do not have an effect on these relationships. Factors such as the nature and history of the relationship, types of personalities that occupy the positions of leadership, and prevailing economic conditions all have an effect of this relationship.

Policemen

Operational Hypothesis VII: Policemen feel that the compulsory arbitration board has affected the collective bargaining process.

Policemen interviewed expressed little doubt that

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[6]Benjamin H. Selekman, et. al., Problems in Labor Relations (3rd ed.; New York: McGraw-Hill Book Company, Inc., 1964). pp. 4-9.

compulsory arbitration has affected the collective bargaining process. In eleven of the twelve communities it was reported that prior to binding arbitration there was a "take it or leave it" attitude on the part of the administration. According to union officials interviewed, this same attitude prevailed even under advisory arbitration. Apparently the city administrators believed that they did not have to comply with the arbitrator's decision.

Since the advent of binding, compulsory arbitration, collective bargaining has become more realistic according to interviewees. One officer felt that it forces administration officials to listen and to be more agreeable to the organization. In addition to this obvious kind of response, compulsory arbitration forces the corporate authority to offer proposals and counter-proposals more rapidly. A time-table has been established in the law and if a decision is not reached within a stated period, the unresolved issues automatically go to arbitration.

The collective bargaining process has also been affected because the policemen say they now have a procedure to follow if they do not approve the package offered by the administration and this procedure does

not denigrate their public image.

The one union official who reported that binding, compulsory arbitration did not have any effect on collective bargaining would make no further comment as to why he felt this way.

Ten of the eleven persons who noted the positive effect on collective bargaining stated that in no instance did binding, compulsory arbitration discourage collective bargaining. Binding arbitration enhances collective bargaining they said because there is an equalization of power. Each side knows the other has a weapon and therefore each is more realistic at the negotiating table.

The two persons who stated that compulsory arbitration discouraged collective bargaining were from small towns with small police forces. It was the opinion of these two that the administration officials knew that there was little money in the union treasury and the union could not afford to go to arbitration. Since there would be no arbitration hearing there was no weapon to bargain in good faith, and collective bargaining was discouraged.[7]

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[7]Contrary to the opinion of these two men, union organizations at the next level or at the international level would not permit the local union to be dissolved.

Union officials interviewed expressed mixed opinions on the effect of compulsory arbitration as a means of increasing their power and growth, thereby equalizing the power of both parties. Seven union officials (58 per cent) felt that policemen in Rhode Island had discovered how much could be obtained in terms of benefits (both wage and non-wage) if they banded together to enhance power and growth. The five union officials who stated there was no effect between compulsory arbitration and a union's power and growth also stated that only the strike weapon could affect a union's power and growth.

Regarding whether or not compulsory arbitration is a means to municipal peace, four union officials (33 per cent) reported it was not. According to the four union officials, it is known by both parties that each is bound by the decision of the compulsory arbitration board and this has been a factor in improved morale. The eight union officials stated that the arbitration process will never be able to deal with the complexities of any one single dispute. Having an arbitration board make a decision and leaving the implementation of the decision to the parties involved does not reduce hostilities which may be present, they said.

Corporate Authority

Operational Hypothesis VIII: Members of the corporate authority feel that the compulsory arbitration board has affected the collective bargaining process.

Eleven of twelve administrators stated that compulsory arbitration had an effect on collective bargaining. This effect has been both positive and negative. On the positive side, compulsory arbitration was said to force both parties to pay more attention to collective bargaining. When arbitrators' awards were advisory in nature, members of the corporate authority admittedly disregarded any decisions of which they did not approve. Now that awards are binding, the corporate authority is apprehensive about the possibility of an unjust award, that is, unjust in the sense of ability to pay or to implement an unclear award. Agreements reached under collective bargaining are far superior to arbitration, according to administrators.

One negative effect that compulsory arbitration has had on collective bargaining is said to be the reluctance of the corporate authority to make known its final offer in negotiations. The reason given for this is that administrators are apprehensive of the results

should the case go to arbitration after the last offer is made known. Under these conditions the starting point for arbitration would be at the level of the last offer and this may prohibit good faith bargaining.

Although agreeing with the unions by stating that compulsory arbitration has had an effect on collective bargaining, the members of the corporate authority differ in the way they said bargaining has been affected. While ten union officials (83 per cent) reported that compulsory arbitration enhanced collective bargaining, eleven corporate authority officials (92 per cent) stated that compulsory arbitration discouraged collective bargaining. It is generally felt that since the union now has a weapon, compulsory arbitration, they desire to use it. Administrators feel that attitudes of "what can we lose?" on the part of a union make bargaining difficult if not impossible.

Eight members of the corporate authority (61 per cent) felt that the unions power and growth have been enhanced by compulsory arbitration, and four reported that there was no effect. Ten of a possible twelve stated that compulsory arbitration did not improve the likelihood of municipal peace because the policemen could see that awards give them more, causing them to

want even more. They would be willing to pay the expense of arbitration to obtain this they said.

Salary Rates

Operational Hypothesis IX: The percentage increase in wages has been greater subsequent to the enactment of the compulsory arbitration law than prior to the law.

Salary rates have fluctuated from 1965 through 1970, but each year the average raise for police officers was in excess of the rise in the cost of living.[8] In 1966 the average increase for policemen exceeded the cost of living index by 0.1%, in 1967 by 2.4%, in 1968 by 1.9%, in 1969 by 5.6%, and in 1970 by 3.2% (see Table 5.9).

From 1965 to the enactment of the compulsory arbitration law in 1968, five communities (41 per cent) did not award salary increases to police officers. Since the implementation of this arbitration statute, all policemen have obtained a monetary increase.

With the exception of 1970, average wage rates have increased (see Table 5.9). The probability exists

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[8]Handbook of Labor Statistics 1970, Washington, D.C.: (U.S. Department of Labor--Bureau of Labor Statistics, 1970), p. 167.

TABLE 5.9

PERCENTAGE SALARY INCREASES COMPARED WITH COST OF LIVING PERCENTAGES FOR THE COMMUNITIES SURVEYED IN THE STUDY OF THE OPERATIONS OF POLICE COMPULSORY ARBITRATION BOARDS IN RHODE ISLAND, 1966-1970

Year	Percentage Increase	Cost of Living
1966	3.7	3.6
1967	6.8	4.4
1968	7.4	5.5
1969	10.7	5.1
1970	8.8	5.6

that the reason for a decline in the average wage increase was due to the general economic conditions in the country.

There is no indication that this steady rise in real wage rates (disregarding the cost of living index) has been affected by the binding, compulsory arbitration statute. Other factors such as comparable wage rates, the tax structure in each community, the general economy as a whole, and public reactions would have to be included as additional reasons for this upward trend in real wages.

Grievance Rates[9]

Operational Hypothesis X: The grievance rate (in per cent) has been greater subsequent to the enactment of the compulsory arbitration law than prior to the law.

From the years 1965 to 1970, five of the twelve communities reported that they had no grievances. Of these five, three were cities, and their populations ranged from the smallest to the largest. The two towns that reported not having any grievances were of medium size. No community reported having a grievance in the

[9]See Table 5.10.

TABLE 5.10

NUMBER OF GRIEVANCES FOR THE COMMUNITIES SURVEYED IN THE STUDY OF THE OPERATIONS OF POLICE COMPULSORY ARBITRATION BOARDS IN RHODE ISLAND, 1965-1970

Year	Number
1965	0
1966	4
1967	1
1968	6
1969	6
1970	16

year 1965.

In the years 1966 and 1967 a total of five grievances dealing with police contracts were reported in the communities studied. Two communities had two each, and only one community reported a total of six in 1968. The same number (six) was reported in 1969, and in 1970 sixteen grievances were reported by four communities.

This evidence indicates that grievance rates have been increasing, especially since 1968. In is unreasonable to attribute this rise solely to compulsory arbitration. In addition to the advent of compulsory arbitration, more policemen have been added to each department, and it is evident that the labor organizations are becoming more sophisticated in the overall grievance procedure.

Turnover Rates[10]

A trend observed concerning turnover rates is that more policemen are being added to the force than are being separated. The years 1965 through 1970 show the following accession rates: 4.6%, 4.1%, 3.5%, 5.6%, 3.6%, and 4.2%; the separation rates are: 2.6%, 3.3%,

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[10]See Table 5.11.

TABLE 5.11

TURNOVER RATES FOR THE COMMUNITIES SURVEYED IN THE STUDY OF THE OPERATIONS OF POLICE COMPULSORY ARBITRATION BOARDS IN RHODE ISLAND, 1965-1970

	Turnover Rates			
	New Hires		Separations	
Year	Actual	Percentage	Actual	Percentage
1965	46	4.6	26	2.6
1966	41	4.1	33	3.3
1967	35	3.5	24	2.4
1968	56	5.6	25	2.5
1969	36	3.6	23	2.3
1970	42	4.2	16	1.6

2.6%, 2.5%, 3.0%, and 1.6%. In every year studied there has been an overall increase in policemen hired--the highest being a 3.1% increase in 1968 over 1967 and the lowest being a 0.6% increase in 1969 over 1968.

Absentee Rates

Absentee rates due to reported illness and those due to accidents suffered on the job are on the increase. With the exception of 1965, lost time due to illness has been on the rise and has proceeded from 3.0% in 1966 to a high of 3.9% in 1970.[11] The year 1965 had a 3.2% absentee rate per department.

Likewise, absentee rates due to accidents have increased steadily from a low of 0.9% in 1965 to a high of 1.6% in 1970 (see Table 5.12).

Effect on Labor-Management Relations

From the information obtained in this study, it would appear that the presence of a compulsory arbitration law has had an effect on labor-management relations. Thus general hypothesis number three would be accepted. It stated: The presence of a compulsory arbitration

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[11]These absentee rates were compiled by using formula #2 as presented in : Dale Yoder, H. G. Heneman, John Turnbull, and C. Harold Stone, Handbook of Personnel Management and Labor Relations, (New York: McGraw-Hill Book Company, Inc., 1958), p. 14-37.

TABLE 5.12

ABSENTEE RATES FOR THE COMMUNITIES SURVEYED IN THE STUDY OF THE OPERATIONS OF POLICE COMPULSORY ARBITRATION BOARDS IN RHODE ISLAND, 1965-1970

Year	Absentee Rates		
	Due to Illness	Due to Accidents	Total
1965	3.2	0.9	4.1
1966	3.0	1.1	4.1
1967	3.0	1.1	4.1
1968	3.2	1.5	4.7
1969	3.6	1.5	5.1
1970	3.9	1.6	5.5

board has had an effect on the labor-management relations in those communities that have had an experience with a compulsory arbitration board.

In analyzing these data, it appears that this effect on the relationship has been a direct result of a changed power structure. Since 1968, when the law was passed police labor organizations have been able to use compulsory arbitration and have done so to their advantage. This makes the Fraternal Order of Police and the International Brotherhood of Police Officers powerful in addition to the increasing number of police officers.

In all the communities studied, the corporate authority now takes an active part in negotiations. The police labor organization now has some recourse if the offer is not considered by them to be in the best interests of its membership. The corporate authority is well aware of this and thus is more concerned with negotiations.

A few of the mayors or town officials are the chief negotiators for their community. This has its advantages because the union negotiators feel that they are negotiating with the highest official in the community. In addition, since the elected official is

the representative of the general public in that community he should be on the negotiating committee. One disadvantage of having an elected official as the negotiator for the corporate authority is that he may not be qualified as a negotiator.

In a majority of the cities and towns, the attorney representing the union is the chief negotiator. Policemen feel that this is in their best interest. By having a professional negotiator opposing the corporate authority, bargaining statures are equalized.

It also appears after analyzing the information obtained that police departments cooperate with each other in bargaining with the corporate authority. The many police locals in Rhode Island cooperate with each other as well as with locals in different sectors. However, there is no evidence that the corporate authorities in the state use this cooperation in bargaining to the same degree as the union does. If the corporate authorities desire to offset the power base that the union is building, they are going to have to work together in a coalition type atmosphere.

Other Responses

In addition to the responses obtained from the union officials and the corporate authorities reported

above, personnel directors and arbitrators stated their positions on several additional questions which follow: (1) the effect of compulsory arbitration on collective bargaining; (2) whether or not compulsory arbitration discouraged collective bargaining; (3) whether or not compulsory arbitration insured municipal peace; and (4) whether or not compulsory arbitration enhanced unions power and growth.

Four of the five personnel directors stated that compulsory arbitration has had an effect on collective bargaining and that this effect has been an adverse one. As the personnel directors observe their operations, it appears to them that this compulsory arbitration statute permits manipulation. It enables the parties to have an out if they want to take advantage of the situation. The corporate authority uses arbitration to give the policemen a raise in wages that the public would not approve. The union official uses arbitration as a scapegoat if all the demands are not met. In addition, four of five reported that they felt compulsory arbitration did enhance union power and growth but that it did not insure municipal peace. The fifth personnel director held the opposite view to that of his colleagues.

With regard to the same questions, seven of nine corporate authority arbitrators (78 per cent) stated that compulsory arbitration has had an effect on collective bargaining, four of six union arbitrators (61 per cent) also held this position, and all eight neutral arbitrators (100 per cent) held similar views.

Of the corporate authority arbiters, six stated that they did not feel that compulsory arbitration discouraged collective bargaining. All gave the impression that they felt that arbitration was a tool to be used if and when negotiations reached an impasse. Eight of the nine arbitrators felt that compulsory arbitration enhanced union power and growth. Both power and growth are enhanced in the sense that it enables the union to obtain a decision both in grievance and contract negotiation. One arbitrator stated that compulsory arbitration retards union power and growth, and only the strike weapon could enhance it. Six of the nine stated that compulsory arbitration did not insure municipal peace basically because of the "whipsaw effect".[12] Three of the six corporate authority

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[12]For example, if the policemen used arbitration to obtain a contract and were satisfied, another department in another town or a different group in the same town would try to obtain a similar package. Then the police would want even more, so it would have to go back to arbitration the next year.

arbitrators stated that each side was aware of the finality of a binding agreement and each would accept the award as rendered.

The union arbitrators also felt that compulsory arbitration has an effect on collective bargaining. In three of the six responses it was stated that compulsory arbitration discourages collective bargaining because both sides have the feeling that they must go to arbitration; whereas, many of the issues could be agreed upon if both sides were reasonable and would bargain in good faith. On the question of whether or not compulsory arbitration discouraged collective bargaining, the other three union arbitrators leaned in the negative direction but had no comments. Three out of six union arbitrators stated that compulsory arbitration enhanced union power and growth. The reasons given for this enhancement were that the policemen now have a weapon to fight for increased demands as well as a tool to increase membership and power. Three other arbitrators stated that there was no connection between arbitration and a union's power and growth. One-half of the arbitrators did not think that municipal peace would necessarily prevail following an award although all arbitrators surmised that all parties would work with a

binding award.

All eight neutral arbitrators felt that compulsory arbitration affects collective bargaining. Six of these eight expressed the opinion that compulsory arbitration discourages good faith collective bargaining. It was stated that arbitration, or the easy way out, was chosen in order that blame could not be attached to one of the parties. During negotiations, the two sides do not discuss any proposals or counter-proposals, but rather select their attorneys and arbitrators for the arbitration hearing.

On the question of relating arbitration and the enhancement of unions' power and growth, four neutral arbitrators stated that this was the case and the other four responded by stating that such a possibility existed. Growth of the union organization is directly related to the gains it makes for this same organization. In this respect of gains made, unions have grown and, with this growth comes power.

The neutral arbitrators were split as to whether or not compulsory arbitration would insure municipal peace. On the "pro" side, since awards may be in existence for no more than one year and if the police organization does not approve of its award, it has

another opportunity for a change in contract in a reasonably short period of time. On the "con" side, four members stated that nothing can or will insure peace.

Opinions Regarding Compulsory Arbitration in Rhode Island

In order to ascertain the opinions persons had regarding binding, compulsory arbitration in Rhode Island, each individual interviewed in this study was asked the following questions:

(1) Were you satisfied with the decisions made by the compulsory arbitration board?

(2) Do you think the other parties involved with compulsory arbitration were satisfied with the decisions made by the board?

(3) To what extent is compulsory arbitration used to take the pressure off one or another party?

(4) Should there be any changes in compulsory arbitration boards?

(5) Should there be any changes in the procedures followed by the board?[13]

Participants' Opinions of Compulsory Arbitration

The members of the corporate authority in five (42 per cent) of the localities covered by this study indicated that they were satisfied with the final decision made by the board concerning their police department's contract (see Table 5.13). The general

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[13]See Appendix B.

TABLE 5.13

ACTUAL FEELINGS OF SATISFACTION REGARDING POLICE COMPULSORY ARBITRATION BOARDS IN RHODE ISLAND EXPRESSED BY THE MEMBERS OF THE CORPORATE AUTHORITY AS COMPARED WITH THEIR PERCEPTION OF OTHER PARTICIPANTS' SATISFACTION, 1971

Participants	Satisfied	Not Satisfied	No Comment
Actual Feelings			
Corporate Authority	5	7	0
Perceived Feelings			
Union Official	4	6	2
Personnel Director	0	3	2
Corporate Authority	3	7	2
Arbitrators	8	1	3

comment by these five administrators was that the arbitration board's award was a fair and equitable one.

The seven members (58 per cent) that were dissatisfied with the arbitration award complained bitterly about a third party entering their communities and establishing wage rates and indirectly establishing tax rates for the general public. It was also stated that in rendering these decisions, the arbitrators did not weigh the financial positions of the communities adequately. These administrators definitely felt that the culprit behind these "outrageous" settlements was the statute that permitted binding arbitration. Since the law states that the arbitrators have to take into account prevailing wage rates in the community (i.e. wages paid to the trades and to employees in industry), this is the basis on which the arbitrators make decisions. Admittedly this practice takes place, but it appeared to the researcher that it did so only to a slight degree. The two major bases that arbitrators used to arrive at a decision were: first, comparable wage rates in the public sector, specifically using police departments in other surrounding localities; and second, the community's actual ability to pay.

When each of the corporate authorities was asked

how he thought the other members of the corporate authority felt about decisions made in their respective localities, three reported they thought satisfaction prevailed generally, seven reported the corporate authority was dissatisfied overall, and two members reported that they had no opinion. The prevailing reasoning for the dissatisfaction was that of having a third party enter a community and set the tax rates indirectly through the awards.

Sixty-six per cent of the administrators reported that they surmised the arbitrators, as individuals, were satisfied with the decisions they rendered. One member of the corporate authority stated that he did not think the arbitrators were satisfied with the decision, but refused to comment on that statement. Three other administrators were noncommittal on the question. It appears that satisfaction is measured by the parties involved by whether or not the decision and award is unanimously approved by all the arbiters. It did enter the minds of several of the corporate authorities that possibly the arbitrator chosen by them was incompetent at arbitration and did not know all the ramifications of what he was signing. Some corporate authorities just assumed if the arbitrator signed the

award and did not file a dissent he was satisfied.

In those communities with personnel departments, three administrators stated the personnel directors were dissatisfied with the award for the same reasons, and two had no comment.

Surprisingly, only four administrators (33 per cent) thought that the union was satisfied with the award when in actuality eight union officials reported they were satisfied (see Table 5.14). The administrators that reported the union was not satisfied did with the explanation that unions are never satisfied.. One member reported that the union in his community was not satisfied because the arbitration award was lower in terms of dollars than the locality had offered in negotiations.

The union officials reported to be satisfied with the decisions also said that they felt other union officials and the rank and file membership were satisfied on the whole with the decisions handed down in the respective communities. A possible explanation for this is that union officials might not have been totally satisfied with the arbitrators' decision, but they were extremely satisfied with the idea of compulsory arbitration and the possibilities for the future

TABLE 5.14

ACTUAL FEELINGS OF SATISFACTION REGARDING POLICE COMPULSORY ARBITRATION BOARDS IN RHODE ISLAND EXPRESSED BY THE UNION OFFICIALS AS COMPARED WITH THEIR PERCEPTION OF OTHER PARTICIPANTS' SATISFACTION, 1971

Participants	Satisfied	Not Satisfied	No Comment
Actual Feelings			
Union Official	8	4	0
Perceived Feelings			
Corporate Authority	3	9	0
Personnei Director	0	5	0
Union Official	4	4	4
Arbitrators	5	5	2

because of the new statute.

Union officials agreed three to one that the corporate authority was not satisfied with the decision made by the board. An obvious explanation for this feeling lies in the fact that thirty-eight of the administrators in the cities and towns in Rhode Island expressed disapproval in the statute when it was in the General Assembly, and only one mayor approved of it. The corporate authority had made it apparent to the union that a third party setting the tax rates is incompatible with its notion of how to run a government.

All five union officials in localities where there was a personnel department reported that it was their belief that the personnel director was not satisfied with the award for the same reasons as those given for the corporate authority, that is, having a third party enter a community and setting the tax rates indirectly through the award.

Five union officials (42 per cent) reported that they thought the arbitrators were satisfied with the decisions, five reported non-satisfaction, and two had no comments. Apparently the union approached this question in the same way as did the corporate authority. If an arbitrator dissented, this was assumed to be clear

evidence of dissatisfaction. As will be discussed later, this assumption may be misleading.

All but one of the personnel directors reported that they were satisfied with the decisions made by the compulsory arbitration board in their community (see Table 5.15). These four personnel directors stated that the arbitration award did not, in their best judgment, change the financial position of the community. It allowed the administrator of the locality to maintain the list of priorities in every case. The one personnel director who reported his dissatisfaction with the decision made claimed that a third party making decisions in a community will affect the tax rate.

The personnel directors were unanimous in stating that the arbitrators as individuals were satisfied with the decisions they made. The statements made by these personnel directors were also unanimous since each reported that his colleagues were dissatisfied with compulsory arbitration in their respective community.

Each personnel director reported that he felt the corporate authorities were satisfied with the decisions in their communities. The reason for this was that the arbitration award did not cost the community as much as the administration had anticipated.

TABLE 5.15

ACTUAL FEELINGS OF SATISFACTION REGARDING POLICE COMPULSORY ARBITRATION BOARDS IN RHODE ISLAND EXPRESSED BY THE PERSONNEL DIRECTORS AS COMPARED WITH THEIR PERCEPTION OF OTHER PARTICIPANTS' SATISFACTION, 1971

Participants	Satisfied	Not Satisfied	No Comment
Actual Feelings			
Personnel Director	4	1	0
Perceived Feelings			
Corporate Authority	5	0	0
Union Officials	2	2	1
Personnel Directors	0	5	0
Arbitrators	4	0	1

It was also felt by two of the personnel directors that the union was satisfied, by two that the union was dissatisfied, and one had no comment. In the cases where the personnel directors felt the union was satisfied, it was reported that the union received more in the award than it believed possible. In two cases reported by the personnel directors, it was believed the union was dissatisfied because in one case the union president was voted out of office and, in the second case, the labor organization refused to pay its portion of the arbitration cost.

Of the twenty-four arbitrators interviewed in this study, sixteen (66 per cent) reported that they were completely satisfied with their decisions and awards handed down in their respective communities (see Tables 5.16, 5.17, and 5.18). Seven of these arbiters were hired by the corporate authority, two were union arbiters, and eight were neutral arbiters. Only two arbiters representing the administration and two representing the union stated that they were dissatisfied with the arbitration award in which they took part. The remaining two arbitrators, both from the union, had no comments to offer on this question.

Even though all three arbitrators are theoretically

TABLE 5.16

ACTUAL FEELINGS OF SATISFACTION REGARDING POLICE COMPULSORY ARBITRATION BOARDS IN RHODE ISLAND EXPRESSED BY THE CORPORATE AUTHORITY ARBITRATORS AS COMPARED WITH THEIR PERCEPTION OF OTHER PARTICIPANTS' SATISFACTION, 1971

Participants	Satisfied	Not Satisfied	No Comment
Actual Feelings			
Corporate Authority Arbiter	7	2	0
Perceived Feelings			
Corporate Authority	6	2	1
Union Official	7	0	2
Personnel Director	5	0	0
Other Arbitrators	7	2	0

TABLE 5.17

ACTUAL FEELINGS OF SATISFACTION REGARDING POLICE COMPULSORY ARBITRATION BOARDS IN RHODE ISLAND EXPRESSED BY THE UNION ARBITRATORS AS COMPARED WITH THEIR PERCEPTION OF OTHER PARTICIPANTS' SATISFACTION, 1971

Participants	Satisfied	Not Satisfied	No Comment
Actual Feelings			
Union Arbiter	2	2	2
Perceived Feelings			
Corporate Authority	1	2	3
Union Official	2	1	3
Personnel Director	1	1	3
Other Arbitrators	2	1	3

TABLE 5.18

ACTUAL FEELINGS OF SATISFACTION REGARDING POLICE COMPULSORY ARBITRATION BOARDS IN RHODE ISLAND EXPRESSED BY THE NEUTRAL ARBITRATORS AS COMPARED WITH THEIR PERCEPTION OF OTHER PARTICIPANTS' SATISFACTION, 1971

Participants	Satisfied	Not Satisfied	No Comment
Actual Feelings			
Neutral Arbiter	8	0	0
Perceived Feelings			
Corporate Authority	5	3	0
Union Official	4	3	1
Personnel Director	5	0	0
Other Arbitrators	7	1	0

impartial, the majority of these persons reportedly are to some extent favorable to the side that appoints them. The only truly impartial arbitrator is the third person selected by the other two. It appears that those arbitrators who reported being satisfied with the decisions made in their case were able to confine the award within the boundaries that were set for them by their respective sides. In comparing the figures previously reported concerning the corporate authorities satisfaction and those figures relating to the representatives (i.e. their arbitrators) of the corporate authorities, a discrepancy is found. Seven administrators and arbitrators agreed as to the satisfactions or dissatisfactions resulting from the award in their respective localities. However, five arbitrators reportedly felt that the corporate authority was satisfied with the decision when in fact the administrator stated he was not satisfied.

Five arbitrators reported that they were satisfied with the award and in agreement with the statements made by the union. Two arbitrators were dissatisfied as were the corresponding union officials in those communities. More will be stated about these relationships later in this chapter.

All the neutral arbitrators stated that they were satisfied with the decisions that their boards handed down.

When the arbitrators were asked about how they thought their colleagues felt about the decision rendered, only three expressed a different feeling than they themselves felt. One corporate authority arbitrator who was dissatisfied with the decisions rendered in his community reportedly thought that it was the general rule for arbitrators to be satisfied. Another arbitrator for the administration expressed the opposite view. He felt that although he was satisfied, generally the arbitrator for the corporate authority is dissatisfied. His reasoning for this was that arbitration boards are "pro" labor. He would make no further comments on this question. One union arbitrator that was reportedly dissatisfied stated that most union arbitrators were satisfied with decisions made in their communities. He just happened to have taken part in an arbitration award which was lower than the locality offered before arbitration took place (see Appendix D, Tables 4, 5, 6, and 7 for cross reference).

Use of Arbitration to Reduce Responsibility for Decisions

It was reported earlier that there was a discrepancy between the dissatisfactions which were expressed by the corporate authority and the satisfactions expressed by their appointed arbitrators over the decisions and awards in their communities. This kind of information supports the idea that both sides (corporate authority and union) use compulsory arbitration as a means for shifting blame. Since both officials are elected to their positions, the views made available as public information are what the constituents desire to hear. It is likely that, for public record, town administrators desire to keep the policemen's pay as low as possible even though they may know the police are underpaid. If an arbitration board is convened to issue a decision, a more just settlement may well be reached. If the tax rates have to be adjusted to pay for an increase, the arbitration board is the party to blame. If the union president does not deliver the promised increases to the rank and file, again the culprit is the arbitration board.

To try to substantiate this idea of the two parties placing the blame on arbitration, the corporate authority and the union president were asked to state

their positions on the use of compulsory arbitration as a means of taking away the responsibility for decision-making. In the case of the personnel directors and the arbitrators, each was asked his impression of the extent to which compulsory arbitration was used as a means for shifting blame.

Ten of the twelve corporate authority officials reported that this was the case. Since public pressures are so great, compulsory arbitration allows the corporate authority to make a decision which would normally be unpopular with the general public. Only one administrator stated that he did not employ this technique, and one had no comment.

Nine union officials (74 per cent) reported that they used this technique to enhance their position and four stated that although the corporate authority used this as a method, the unions did not.

Personnel directors were in total agreement that both sides used compulsory arbitration extensively to take away the responsibility for decision-making.

Since the arbitrators selected by each side are the representatives of these respective groups in the actual arbitration hearings, it would seem that these arbiters would work closely with their employers. This

means that the corporate authority arbiter has to know before the tripartite panel convenes how high the administration is willing to go and the union arbiter has to know the minimum package acceptable to the rank and file. It appears that these persons would know whether or not each side uses compulsory arbitration as a means for shifting blame. If an administrator publicly denounces an award, yet the package is within the guidelines given to the arbiter, it is likely the administrator is using compulsory arbitration to his own advantage. The same is true for the union side.

Seven arbitrators (78 per cent) for the corporate authorities stated this practice was used extensively, one reported it was used to a slight degree, and one reported it was not used. The arbiter who reported that this technique was not used was employed by the community whose corporate authority stated the same position. Thus, there is perfect agreement between the arbitrators' answers and those given by the corporate authority.

This agreement between arbitrator and client does not exist for the union. The union officials in two communities reported that they did not use this kind of technique, while the arbitrator had a contrary opinion.

All but one neutral arbitrator reported that both sides used compulsory arbitration as a means for shifting blame, but all declined to relate any specifics.

From the data it appears that compulsory arbitration is used to enhance relative positions on the part of both unions and corporate authorities.

Changes in Arbitration Boards

The consensus of opinion among the members of the corporate authority is that there should be changes in the makeup of compulsory arbitration boards. Instead of having three persons entering a community and making awards which eventually determine the tax rates, it should be assured that these persons be residents of Rhode Island if not members of the community.

What the administrators are proposing is a labor court that would hear all cases in Rhode Island. This labor court would be composed of five residents of the state who would be appointed by the governor. The administrators feel that by having this type of procedure, this court would be better able to comprehend the comparative packages in other communities as well as packages within a community.

One possible problem of this type of structure is political in nature. It might be a relatively simple

matter to stack the board in favor of one side or the other depending on the governor's desires.

Ten of twelve union officials are satisfied with the makeup of the board and the personnel directors approve in a like proportion.

The arbitrators overwhelmingly disapprove of any changes in the system now used in this state. Their reaction is one of fairness because they believe that it is fair and equitable for each side to be able to choose the representative that they think will enhance their position the most. These two representatives choose a third party whom they know to be impartial thereby enhancing the objectivity of the board.

Changes in Procedure by the Board

Eighty per cent of the administrators, the union officials, and the personnel directors are satisfied with the procedures followed by the board. It appears to them that the tripartite board analyzes the information given to them in the hearings and acts accordingly. The other twenty per cent who reportedly would change the board's procedure would take away the opportunity for compromise among issues. Instead of the arbiters making compromises between the number of days off and wages for example, each side would prepare a package

and the arbitration board would select one of the two packages in their entirety.

The corporate authority arbitrators by a vote of 67 per cent to 33 per cent elect to have no changes in procedure. The union's arbitrators are 50 per cent in favor of a change in procedures; whereas, 75 per cent of the neutral arbitrators are in favor of a change.

It is apparent from these figures that the neutral arbitrators are more prone to experiment with a last package offer. Since this kind of approach has never been instituted anywhere in the world prior to this date it might prove to be a worthwhile experience.

Summary

It was possible to interview all those parties in the twelve communities that had been involved in binding, compulsory arbitration. Those persons interviewed were:

(1) The top ranking officer of the policemen's association;

(2) The top ranking official of the corporate authority;

(3) The personnel director;

(4) Each of the three arbitrators involved with the decisions.

On the basis of the information obtained in the interviews, conclusions were drawn on the operational hypotheses and on the general hypotheses. In addition, the practical significance of the general hypotheses to Rhode Island was discussed.

Opinions were obtained from all persons interviewed regarding compulsory arbitration in Rhode Island. The opinions discussed in this chapter included those on the use of arbitration to reduce responsibility for decision-making, changes in the compulsory arbitration boards, and changes in the procedures followed by compulsory arbitration boards.

C H A P T E R V I

SUMMARY AND CONCLUSIONS

Collective bargaining in the public sector has been undergoing a vast and far-reaching transition in the last decade. Every year the number of union members in this sector of the economy is increasing. With this increase in the number of union personnel comes substantial change in work relationships and working conditions including the possible increase in work stoppages. Although strikes by public employees are prohibited in nearly every state, such stoppages have occurred with increasing frequency in recent years.

In 1968, the State of Rhode Island instituted a process which was intended to give public employees an alternative to work stoppages. This alternative is binding, compulsory arbitration. Since Rhode Island has made no provision for compiling any information on the experience under the act, it would seem that a detailed analysis of one area of coverage would aid all parties concerned. The sector covered in this report is the police departments which have utilized binding, compulsory arbitration in order to settle contract disputes.

Methodology

Primary sources of data in this study included: (1) the General Laws of the State of Rhode Island; and (2) interviews with the following: officers of the policeman's association, members of the corporate authority, individuals who have been neutral arbitrators, arbitrators for the union, arbitrators for the corporate authority, and personnel directors for the cities and/or towns which have been affected by this legislation.

The methodological procedure consisted of two parts: First, a detailed analysis of the state law which provides for the implementation of the compulsory arbitration board; and second, using a structured questionnaire, members of the policeman's association, members of the corporate authority, arbitrators, and personnel directors were interviewed in those cities and/or towns that have had experience with a compulsory arbitration board.

Three general hypotheses were used to test the following:

(1) The relationship of the geographic location to the utilization of a compulsory arbitration board;

(2) The relationship of the size of the bargaining unit to the utilization of a compulsory arbitration board; and

(3) The effect of the compulsory arbitration boards on the labor-management relationship.

Operational hypotheses were used to test the general hypotheses.

Results

According to the data collected in this study it is possible to state that:

(1) There is a significant relationship between the population in a geographic location and the utilization of a compulsory arbitration board; (i.e. the larger the population the more likely compulsory arbitration will be utilized to settle an impasse in that community).

(2) There is a significant relationship between the form of government in a geographic location and the utilization of a compulsory arbitration board; (i.e. cities are more likely to utilize compulsory arbitration than are towns).

(3) There is a significant relationship between the number of full-time policemen in a geographic location and the utilization of a compulsory arbitration board; (i.e. the greater the number of policemen in a community, the more likely compulsory arbitration will be utilized to settle an impasse in that community).

(4) There is a significant relationship between the number of members in a bargaining unit and the utilization of a compulsory arbitration board; (i.e. the larger the bargaining unit the more likely compulsory arbitration will be utilized to settle an impasse in that community).

(5) Policemen feel that the compulsory arbitration

board has affected the collective bargaining process. The most important effect has been to make collective bargaining more realistic since this statute forces the employer to offer proposals and counterproposals.

(6) The members of the corporate authority feel that compulsory arbitration has affected the collective bargaining process in that compulsory arbitration has caused administrators to pay more attention to collective bargaining. Since there is a possibility of an unjust award on the part of the arbitrators, administrators feel decision-making under collective bargaining is far superior to compulsory arbitration. Binding, compulsory arbitration hinders collective bargaining according to administrators because they are apprehensive about making known their last offer.

Even though there are faults to be found with the statute as it stands, the persons who have participated in this kind of decision-making process appear generally satisfied with the results produced so far.

Implications

Despite all the warranted and unwarranted criticisms about compulsory arbitration,[1] the fact remains that the overwhelming majority of persons interviewed in this report agree that binding, compulsory arbitration is far superior to settling disputes than the right to strike would be. Eleven persons thought that

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[1]See for instance: Damon Stetson, "Union Official Scores Arbitration as Costly and Time-Consuming," The New York Sunday Times, May 30, 1971.

the right to strike should be granted to policemen as opposed to fifty-three who favored compulsory arbitration.

It seems clear that every worker should have certain basic requirements met by the employer in terms of wages, hours, and working conditions. If these requirements are not met, the employees should have some recourse to force the employer to upgrade any lacking conditions. Although the most effective way in which to obtain this goal is through the use of the strike, certain groups of people (namely fire fighters and policemen) probably should not have this right. The primary reason is that these two groups of employees help protect the health and safety of the general public.

Unqualified Participants

Since binding, compulsory arbitration appears to be here to stay, at least in the public sector of the economy, members of the corporate authority and union officials have to learn that money which is saved in hiring incompetent arbitrators is lost when this arbitrator affixes his signature to an award. If, in an attempt to save arbitration costs, a city or town chooses a city solicitor with no arbitration experience as its representative in a hearing, and he enters into

arbitration with a highly skilled professional arbitrator representing the union and a superbly trained neutral arbitrator, the city or town will be in a disadvantageous position.

In the majority of cases where one side or the other complained vehemently about the award, in the researcher's judgment, an unqualified arbitrator had been employed.

Inefficiencies of the Arbitration Process

One of the major shortcomings of binding, compulsory arbitration as observed in this study was the complaint of timing. Whenever wages, rates of pay, or any other matter requiring appropriation of money by any city or town are included as matter of collective bargaining, it is the obligation of the bargaining agent to serve written notice of request for collective bargaining on the corporate authority. This request must be sent at least one hundred and twenty days prior to the last day on which money can be appropriated to cover the contract period.

During the time period when negotiations commence and an arbitration board is convened, a variety of issues are discussed by the two sides. Some of these issues are resolved during negotiations. However, when

any one issue is submitted to arbitration, all issues revert back to the original position and are submitted to arbitration.

Instead of an arbitration board having five or six issues to decide upon, they often have twenty or thirty. Obviously the more issues there are, the more time it takes to decide them all, and the higher the cost of arbitration.

One possible solution to this type of problem might be the use of an "arsenal of weapons approach". If the statute were amended to enable the arbitration board to choose whether to hear each issue individually and decide on the merits of each, or to employ the process of selecting the entire package of one side, much time and money might be saved. In either case, if both sides are confronted with the possibility of rising or falling on the last offer they might well look at the package more objectively. In being more objective, both sides should be more reasonable. Even if the entire package were not adopted, the boundaries of each issue would be narrowed considerably.[2]

A second shortcoming of the binding arbitration

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[2]A solution reached in a discussion with William J. Fallon, Arbitrator.

statute is the resultant limited flexibility allowed the negotiating parties. As reported earler, the request for collective bargaining must be initiated at least one hundred and twenty days prior to the last day on which money can be appropriated. In many cases the bargaining agent activates requests more than one hundred and twenty days prior to this date. Coupled with this one hundred and twenty day provision is a section of the law which states that no contract shall exceed the term of one year and this further limits the bargaining flexibility allowed parties. It is very likely that negotiations through collective bargaining and arbitration may proceed for three out of the twelve months. This means there is little time to settle disputes except on a crisis basis. The elimination of the one year limitation would encourage creative collective bargaining and should therefore increase satisfaction on the part of all parties involved.

Future Research

Since this study examined only those communities that have had experience with binding, compulsory arbitration there has been no comparison of the labor-management relationships with those communities that have not utilized this means of settling disputes. This

would be essential to ascertain how all parties that might be involved with binding arbitration feel.

When the term "all parties" is used, this would mean an increase in the scope of a similar study to include a sample, if not all, of the rank and file policemen. It might also be possible to determine if different ranks of policemen have different feelings about compulsory arbitration. It is possible that the law could be improved significantly by those who are most affected by it--the policemen.

Another research project would be one which would compare adjacent cities and/or towns whose boundary is the state line. It would be interesting to compare the labor-management relationship in one city that has utilized compulsory arbitration and these same relationships in an adjoining city or town whose police department is unable to take their case to a binding arbitration board.

These research projects would provide increased knowledge of the effects of binding, compulsory arbitration and could be used to establish better labor relations laws under which we as citizens must live.

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APPENDICES

APPENDIX A

TABLE 1

COMPARISON OF COMPULSORY ARBITRATION STATUTES BY STATE, DECEMBER 31, 1970

State	Effective Date	Coverage	Award Binding on Whom	Number of Members
WYOMING	May 22, 1965	Fire-fighters	All parties	Three
PENNSYLVANIA	June 24, 1968	Firemen and Policemen	All parties	Three
RHODE ISLAND	Sept., 1968	All public employees	All parties	Three
MICHIGAN	Oct. 1, 1969	All public employees except classified	All parties	Three
VERMONT	July 1, 1970	Fire-fighters	All parties	Three
HAWAII	July 1, 1970	All public employees	All parties	Three

TABLE 1--Continued

State	Selection of Neutral Arbitrator	Determination of an Impasse	Payment of Arbitration	Appeal Procedures of Award
WYOMING	District Judge in community	Within a stated period of time from start of negotiations	Award determines cost allocation	Yes
PENNSYLVANIA	Parties choose from list sent by AAA	Failure of Legislature to approve a negotiated agreement	Public employer pays all costs except union arbitrator	Yes
RHODE ISLAND	Chief Justice of Supreme Court	Within a stated period of time from start of negotiations	Parties bear equal share	Yes
MICHIGAN	Chairman of Employment Relations Commission	Within stated period of time after mediation	Parties bear equal share	Yes
VERMONT	Commissioner of Labor and Industry	Within stated period of time after mediation	Parties bear equal share	Yes
HAWAII	Public Employment Relations Board	Within stated period of time after mediation	Parties bear equal share	Not discussed in statute

APPENDIX B

A SURVEY OF THE OPERATIONS OF POLICE COMPULSORY ARBITRATION BOARDS IN THE STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS AS OF MAY, 1971.

Questionnaire For Union Officials

Part I Face Sheet Data

Name of Interviewee: _____

Title of Interviewee: _____

Data of Interview: _____

Location of Interest: _____

Name of Union: _____

Comments:

Part II Interview Data

1. Are any law enforcement officers on your police force members of a union organization? (Note: Union organization would include the FOP.)

   Yes _____ No _____

   If your answer is Yes, please answer the following questions:

   a) To which union do they belong? _____

   b) How many are dues paying members of the union organization?

0- 24 _____	175-199 _____	350-374 _____
25- 49 _____	200-224 _____	375-399 _____
50- 74 _____	225-249 _____	400-424 _____
75- 99 _____	250-274 _____	425-449 _____
100-124 _____	275-299 _____	450-474 _____
125-149 _____	300-324 _____	475-499 _____
150-174 _____	325-349 _____	500 and over_

   c) How many are non-members of the bargaining unit?

0- 24 _____	175-199 _____	350-374 _____
25- 49 _____	200-224 _____	375-399 _____
50- 74 _____	225-249 _____	400-424 _____
75- 99 _____	250-274 _____	425-449 _____
100-124 _____	275-299 _____	450-474 _____
125-149 _____	300-324 _____	475-499 _____
150-174 _____	325-349 _____	500 and over_

2. Were you satisfied with the decisions made by the arbitration board?

   Yes _____ No _____

   Why or why not?

3. Do you believe the other union officials and members were satisfied with the decisions made by the arbitration board?

   Yes _____ No _____

   Why or why not?

4. Do you believe the personnel directors were satisfied with the decisions made by the arbitration board?

   Yes _____ No _____

   Why or why not?

5. Do you believe the corporate authority was satisifed with the decisions made by the arbitration board?

   Yes _____ No _____

   Why or why not?

6. Do you believe the arbitrators were satisfied with the decisions made by the arbitration board?

Yes _____ No _____

Why or why not?

7. Do you feel the compulsory arbitration board has has any effect on collective bargaining?

Yes _____ No _____

a) If Yes:

1) In what ways has collective bargaining been affected?

2) Why has collective bargaining been affected?

b) If No:

1) Why has collective bargaining not been affected?

8. Do you believe that compulsory arbitration insures municipal (governmental) peace?

Yes _____ No _____

a) If Yes:

1) In what ways has compulsory arbitration insured peace?

2) Why does compulsory arbitration insure peace?

b) If No:

1) Why does compulsory arbitration not insure peace?

9. Do you feel that compulsory arbitration enhances union power and growth?

Yes _____ No _____

a) If Yes:

1) In what ways has compulsory arbitration enhanced union power and growth?

2) Why does compulsory arbitration enhance union power and growth?

b) If No:

1) Why does compulsory arbitration not ennance union power and growth?

10. Do you believe that compulsory arbitration discourages collective bargaining?

Yes _____ No _____

a) If Yes:

1) In what ways has compulsory arbitration discouraged collective bargaining?

2) Why does compulsory arbitration discourage collective bargaining?

b) If No:

1) Why does compulsory arbitration not discourage collective bargaining?

11. Do you feel anything should be changed regarding compulsory arbitration boards? (For example: the makeup of the board, how the arbitrators are chosen, etc.)

Yes _____ No _____

a) If Yes:

1) What should be done?

2) Why?

b) If No:

1) Why?

12. Do you feel anything should be changed regarding procedures followed by compulsory arbitration boards? (For example: neutral arbitrator accepting an entire package vs. splitting the difference.)

Yes _____ No _____

a) If Yes:

1) What should be done?

2) Why?

b) If No:

1) Why?

13. How do arbitrators reach their decisions?

14. To what extent is arbitration used to take the heat off one or another party?

15. Is there anything I should have asked in this interview but did not?

Yes _____ No _____

Please explain.

A SURVEY OF THE OPERATIONS OF POLICE COMPULSORY ARBITRATION BOARDS IN THE STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS AS OF MAY, 1971.

Questionnaire For Corporate Authority

Part I Face Sheet Data

Name of Interviewee: _____

Title of Interviewee: _____

Date of Interview: _____

Location of Interest: _____

Comments:

Part II Interview Data

1. Were you satisfied with the decisions made by the arbitration board?

   Yes _____ No _____

   Why or why not?

2. Do you believe the other members of the corporate authority were satisfied with the decisions made by the arbitration board?

   Yes _____ No _____

   Why or why not?

3. Do you believe the personnel directors were satisfied with the decisions made by the arbitration board?

   Yes _____ No _____

   Why or why not?

4. Do you believe the arbitrators were satisfied with the decisions made by the arbitration board?

   Yes _____ No _____

   Why or why not?

5. Do you believe the union was satisfied with the decisions made by the arbitration board?

Yes _____ No _____

Why or why not?

6. Do you feel the compulsory arbitration board has had any effect on collective bargaining?

Yes _____ No _____

a) If Yes:

1) In what ways has collective bargaining been affected?

2) Why has collective bargaining been affected?

b) If No:

1) Why has collective bargaining not been affected?

7. Do you believe that compulsory arbitration insures municipal (governmental) peace?

Yes _____ No _____

a) If Yes:

1) In what ways has compulsory arbitration insured peace?

2) Why does compulsory arbitration insure peace?

b) If No:

1) Why does compulsory arbitration not insure peace?

8. Do you feel that compulsory arbitration enhances union power and growth?

Yes _____ No _____

a) If Yes:

1) In what ways has compulsory arbitration enhanced union power and growth?

2) Why does compulsory arbitration enhance union power and growth?

b) If No:

1) Why does compulsory arbitration not enhance union power and growth?

9. Do you believe that compulsory arbitration discourages collective bargaining?

Yes _____ No _____

a) If Yes:

1) In what ways has compulsory arbitration discouraged collective bargaining?

2) Why does compulsory arbitration discourage collective bargaining?

b) If No:

1) Why does compulsory arbitration not discourage collective bargaining?

10. Do you feel anything should be changed regarding compulsory arbitration boards? (For example: the makeup of the board, how the arbitrators are chosen, etc.)

Yes _____ No _____

a) If Yes:

1) What should be done?

2) Why?

b) If No:

1) Why?

11. Do you feel anything should be changed regarding procedures followed by compulsory arbitration boards? (For example: neutral arbitrator accepting an entire package vs. splitting the difference.)

Yes _____ No _____

a) If Yes:

1) What should be done?

2) Why?

b) If No:

1) Why?

12. How do arbitrators reach their decisions?

13. To what extent is arbitration used to take the heat off one or another party?

14. Is there anything I should have asked in this interview but did not?

Yes _____ No _____

Please explain.

A SURVEY OF THE OPERATIONS OF POLICE COMPULSORY ARBITRATION BOARDS IN THE STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS AS OF MAY, 1971.

Questionnaire For Public Personnel Directors

Part I Face Sheet Data

Name of Interviewee: _____

Title of Interviewee: _____

Date of Interview: _____

Location of Interest: _____

Comments:

Part II Interview Data

1. Which of the following best describes the geographic location within which your police department operates?

City_____ Other (please specify)

Town_____ _____

2. What is your population?

0- 9,999	_____	100,000-109,999	_____
10,000-19,999	_____	110,000-119,999	_____
20,000-29,999	_____	120,000-129,999	_____
30,000-39,999	_____	130,000-139,999	_____
40,000-49,999	_____	140,000-149,999	_____
50,000-59,999	_____	150,000-159,999	_____
60,000-69,999	_____	160,000-169,999	_____
70,000-79,999	_____	170,000-179,999	_____
80,000-89,999	_____	180,000-189,999	_____
90,000-99,999	_____	190,000 and over	_____

3. What ranks are eligible for union membership?

	Yes	No
Chief	_____	_____
Deputy Chief	_____	_____
Major	_____	_____
Captain	_____	_____
Lieutenant	_____	_____

	Yes	No
Sergeant	_____	_____
Patrolman	_____	_____
Meter Maids	_____	_____

4. Which of the following ranges best describes the total number of law enforcement officers in your police department?

0- 24 _____	175-199 _____	350-374 _____
25- 49 _____	200-224 _____	375-399 _____
50- 74 _____	225-249 _____	400-424 _____
75- 99 _____	250-274 _____	425-449 _____
100-124 _____	275-299 _____	450-474 _____
125-149 _____	300-324 _____	475-499 _____
150-174 _____	325-349 _____	500 and over_

5. Has a compulsory arbitration board ever been established to solve any issue for the police department in this community?

Yes _____ No _____

a) If Yes:

1) What issue(s) were decided?

2) Please explain the nature of the issue(s) and the outcome(s).

3) Were you satisfied with the decisions made by the arbitration board?

Yes _____ No _____

Why or why not?

4) Do you believe other personnel directors were satisfied with the decisions made by the arbitration board?

Yes _____ No _____

Why or why not?

5) Do you believe the corporate authority was satisfied with the decisions made by the arbitration board?

Yes _____ No _____

Why or why not?

6) Do you believe the union was satisfied with the decisions made by the arbitration board?

Yes _____ No _____

Why or why not?

7) Do you believe the arbitrators were satisfied with the decisions made by the arbitration board?

Yes _____ No _____

Why or why not?

6. Do you feel the compulsory arbitration board has had any effect on collective bargaining?

Yes _____ No _____

a) If Yes:

1) In what ways has collective bargaining been affected?

2) Why has collective bargaining been affected?

b) If No:

1) Why has collective bargaining not been affected?

7. Do you believe that compulsory arbitration insures municipal (governmental) peace?

Yes _____ No _____

a) If Yes:

1) In what ways has compulsory arbitration insured peace?

2) Why does compulsory arbitration insure peace?

b) If No:

1) Why does compulsory arbitration not insure peace?

8. Do you feel that compulsory arbitration enhances union power and growth?

Yes _____ No _____

a) If Yes:

1) In what ways has compulsory arbitration enhanced union power and growth?

2) Why does compulsory arbitration enhance union power and growth?

b) If No:

1) Why does compulsory arbitration not enhance union power and growth?

9. Do you believe that compulsory arbitration discourages collective bargaining?

Yes _____ No _____

a) If Yes:

1) In what ways has compulsory arbitration discouraged collective bargaining?

2) Why does compulsory arbitration discourage collective bargaining?

b) If No:

1) Why does compulsory arbitration not discourage collective bargaining?

10. Could you please give me the number of occurrences in each of the following categories for the period specified?

a) Grievance Rates

1965 _____
1966 _____
1967 _____
1968 _____
1969 _____
1970 _____

b) Turnover Rates

Accession Rates

	Total Accessions	New Hires
1965	_____	_____
1966	_____	_____
1967	_____	_____
1968	_____	_____
1969	_____	_____
1970	_____	_____

Separation Rates

	Total Separations	Quits	Layoffs
1965	_____	_____	_____
1966	_____	_____	_____
1967	_____	_____	_____
1968	_____	_____	_____
1969	_____	_____	_____
1970	_____	_____	_____

c) Absented Rate (Due to Illness)

1965 _____
1966 _____
1967 _____
1968 _____
1969 _____
1970 _____

d) Absentee Rate (Due to Accidents Incurred on the Job)

1965 _____
1966 _____
1967 _____
1968 _____
1969 _____
1970 _____

11. Could you please give me the amount of wage increase in the following years? How much of this was due to inflation (i.e. cost of living increases)?

1965 _____
1966 _____
1967 _____
1968 _____
1969 _____
1970 _____

12. Do you feel anything should be changed regarding compulsory arbitration boards? (For example: the makeup of the board, how the arbitrators are chosen, etc.)

Yes _____ No _____

a) If Yes:

1) What should be done?

2) Why?

b) If No:

1) Why?

13. Do you feel anything should be changed regarding procedures followed by compulsory arbitration boards? (For example: neutral arbitrator accepting an entire package vs. splitting the difference.)

Yes _____ No _____

a) If Yes:

1) What should be done?

2) Why?

b) If No:

1) Why?

14. How do arbitrators reach their decisions?

15. To what extent is arbitration used to take the heat off one or another party?

16. Is there anything I should have asked in this interview but did not?

Yes _____ No _____

Please explain.

A SURVEY OF THE OPERATIONS OF POLICE COMPULSORY ARBITRATION BOARDS IN THE STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS AS OF MAY, 1971.

Questionnaire For Public Arbitrators

Part I Face Sheet Data

Name of Interviewee: _____

Title of Interviewee: _____

Date of Interview: _____

Location of Interest: _____

Type of Arbitrator: _____ union _____ corporate _____ neutral

Type of Arbitration: _____ grievance _____ contract

Comments:

Part II Interview Data

1. Did the arbitration board follow a formal operating procedure?

   Yes _____ No _____

   a) Please explain.

   b) Why did the board follow this procedure?

2. Have you ever arbitrated a case involving a wage decision?

   Yes _____ No _____

   a) If Yes, was the board operated formally?

      Yes _____ No _____

      Please explain.

   b) If No, was the board operated formally on the non-wage issue?

      Yes _____ No _____

      Please explain.

3. Were you satisfied with the decisions made by the arbitration board?

   Yes _____ No _____

   Why or why not?

4. Do you believe the other arbitrators were satisfied with the decisions made by the arbitration board?

   Yes _____ No _____

   Why or why not?

5. Do you believe the personnel directors were satisfied with the decisions made by the arbitration board?

   Yes _____ No _____

   Why or why not?

6. Do you believe the corporate authority was satisfied with the decisions made by the arbitration board?

   Yes _____ No _____

   Why or why not?

7. Do you believe the union was satisfied with the decisions made by the arbitration board?

Yes _____ No _____

Why or why not?

8. Do you feel the compulsory arbitration board has had any effect on collective bargaining?

Yes _____ No _____

a) If Yes:

1) In what ways has collective bargaining been affected?

2) Why has collective bargaining been affected?

b) If No:

1) Why has collective bargaining not been affected?

9. Do you believe that compulsory arbitration insures municipal (governmental) peace?

Yes _____ No _____

a) If Yes:

1) In what ways has compulsory arbitration insured peace?

2) Why does compulsory arbitration insure peace?

b) If No:

1) Why does compulsory arbitration not insure peace?

10. Do you feel that compulsory arbitration enhances union power and growth?

Yes _____ No _____

a) If Yes:

1) In what ways has compulsory arbitration enhanced union power and growth?

2) Why does compulsory arbitration enhance union power and growth?

b) If No:

1) Why does compulsory arbitration not enhance union power and growth?

11. Do you believe that compulsory arbitration discourages collective bargaining?

Yes _____ No _____

a) If Yes:

1) In what ways has compulsory arbitration discouraged collective bargaining?

2) Why does compulsory arbitration discourage collective bargaining?

b) If No:

1) Why does compulsory arbitration not discourage collective bargaining?

12. Do you feel anything should be changed regarding compulsory arbitration boards? (For example: the makeup of the board, how the arbitrators are chosen, etc.)

Yes _____ No _____

a) If Yes:

1) What should be done?

2) Why?

b) If No:

1) Why?

13. Do you feel anything should be changed regarding procedures followed by compulsory arbitration boards? (For example: neutral arbitrator accepting an entire package vs. splitting the difference.)

Yes _____ No _____

a) If Yes:

1) What should be done?

2) Why?

b) If No:

1) Why?

14. How do arbitrators reach their decisions?

15. To what extent is arbitration used to take the heat off one or another party?

16. Is there anything I should have asked in this interview but did not?

Yes _____ No _____

Please explain.

APPENDIX C

TABLE 1

LISTING OF QUESTIONS USED TO GATHER DATA FOR THE GENERAL AND OPERATIONAL HYPOTHESES IN AN ANALYSIS OF THE OPERATIONS OF POLICE COMPULSORY ARBITRATION BOARDS IN THE STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS, 1971

General Hypothesis Number	Operational Hypothesis Number	Questions used to Test Operational Hypothesis			
		Personnel	Union	Corporate Authority	Arbiters
I	1	2,5			
	2	1,5			
II	3	4,5			
	4	5	1		
	5		1		1,2
	6				1,2
III	7	5,6,7,8,9,12	2,3,4,5,6,7,8,9,10,11,12	1,2,3,4,5,6,7,8,9,10,11	3,4,5,6,7,8,9,10,11,12
	8	5,6,7,8,9,12	2,3,4,5,6,7,8,9,10,11,12	1,2,3,4,5,6,7,8,9,10,11	3,4,5,6,7,8,9,10,11,12
	9	11			
	10	10			

APPENDIX D

TABLE 1

POPULATION DATA FOR THE CITIES AND TOWNS
IN THE STATE OF RHODE ISLAND, 1971

City or Town	Size	City or Town	Size
New Shoreham	489	South Kingston	16,913
West Greenwich	1,841	Westerly	17,248
Little Compton	2,385	Barrington	17,554
Richmond	2,625	Bristol	17,860*
Foster	2,626	Central Falls**	18,716*
Charlestown	2,863	Johnston	22,037
Jamestown	2,911*	Coventry	22,947
Exeter	3,245	West Warwick	24,323*
Glocester	5,160	North Providence	24,337*
Hopkinton	5,392	Cumberland	26,605*
Narragansett	7,138	North Kingston	27,673
Scituate	7,489	Middletown	29,621
North Smithfield	9,349	Newport**	34,562
East Greenwich	9,577	Woonsocket**	46,820*
Burrillville	10,087	East Providence**	48,151
Warren	10,523	Cranston**	73,037*
Portsmouth	12,521	Pawtucket**	76,984*
Tiverton	12,559*	Warwick**	83,694*
Smithfield	13,468	Providence**	179,213*
Lincoln	16,182		

*Indicates having utilized compulsory arbitration.
**Indicates city form of government.

TABLE 2

POLICE MEMBERSHIP IN LABOR ORGANIZATIONS FOR THE CITIES AND TOWNS IN RHODE ISLAND, 1971

City or Town	Number of Members	Number of Non-Members	Total Number of Policemen
West Greenwich	2	0	2
Little Compton	3	0	3
Richmond	3	0	3
Foster	5	0	5
Charlestown	4	0	4
Jamestown	6	1	7
Glocester	7	1	8
Hopkinton	8	0	8
Narragansett	6	3	9
Scituate	6	0	6
North Smithfield	12	0	12
East Greenwich	10	0	10
Burrillville	13	0	13
Warren	16	1	17
Portsmouth	11	5	16
Tiverton	15	0	15
Smithfield	17	0	17
Lincoln	17	0	17
South Kingston	22	0	22

TABLE 2--Continued

City or Town	Number of Members	Number of Non-Members	Total Number of Policemen
Westerly	27	1	28
Barrington	29	0	29
Bristol	24	6	30
Central Falls	35	1	36
Johnston	36	0	36
Coventry	28	9	37
West Warwick	38	0	38
North Providence	30	1	31
Cumberland	30	0	30
North Kingston	32	0	32
Middletown	35	1	36
Newport	41	2	43
Woonsocket	101	0	101
East Providence	103	3	106
Cranston	62	43	105
Pawtucket	150	3	153
Warwick	132	18	150
Providence	394	20	414

TABLE 3

MEMBERSHIP IN A POLICE LABOR ORGANIZATION COMPARED WITH THE TYPE OF PROCEDURE FOLLOWED IN SETTLING DISPUTES IN EACH COMMUNITY, 1971

Community	Number of Members	Arbitrators		
		Corporate Authority	Union	Neutral
Bristol	24	F	F	I
Central Falls	35	I	F	I
Cranston	62	I	F	I
Cumberland	30	F	F	F
Jamestown	6	I	F	I
North Providence	30	I	F	I
Pawtucket	150	I	F	F
Providence	394	I	F	F
Tiverton	15	F	F	F
Warwick	130	I	F	F
West Warwick	35	I	F	I
Woonsocket	101	I	I	I

F-Indicates a formal operating procedure.
I-Indicates an informal operating procedure.

TABLE 4

ACTUAL FEELINGS OF SATISFACTION REGARDING POLICE COMPULSORY ARBITRATION BOARDS IN RHODE ISLAND EXPRESSED BY THE CORPORATE AUTHORITY AS COMPARED WITH THE OTHER PARTICIPANTS' PERCEPTION OF THE CORPORATE AUTHORITIES' SATISFACTION, 1971

Participants	Satisfied	Not Satisfied	No Comment
Actual Feelings			
Corporate Authority	5	7	0
Perceived Feelings			
Union Official	3	9	0
Personnel Director	5	0	0
Corporate Authority Arbiter	6	2	1
Union Arbiter	1	2	3
Neutral Arbiter	5	0	3

TABLE 5

ACTUAL FEELINGS OF SATISFACTION REGARDING POLICE COMPULSORY ARBITRATION BOARDS IN RHODE ISLAND EXPRESSED BY THE UNION OFFICIALS AS COMPARED WITH THE OTHER PARTICIPANTS' PERCEPTION OF THE UNION OFFICIALS' SATISFACTION, 1971

Participants	Satisfied	Not Satisfied	No Comment
Actual Feelings			
Union Official	8	4	0
Perceived Feelings			
Corporate Authority	3	7	2
Personnel Director	2	2	1
Corporate Authority Arbiter	7	0	2
Union Arbiter	2	1	3
Neutral Arbiter	4	3	1

TABLE 6

ACTUAL FEELINGS OF SATISFACTION REGARDING POLICE COMPULSORY ARBITRATION BOARDS IN RHODE ISLAND EXPRESSED BY THE PERSONNEL DIRECTORS AS COMPARED WITH THE OTHER PARTICIPANTS' PERCEPTION OF THE PERSONNEL DIRECTORS' SATISFACTION, 1971

Participants	Satisfied	Not Satisfied	No Comment
Actual Feelings			
Personnel Director	4	1	0
Perceived Feelings			
Corporate Authority	0	3	2
Union Official	0	5	0
Corporate Authority Arbiter	3	0	0
Union Arbiter	1	1	3
Neutral Arbiter	3	0	0

TABLE 7

ACTUAL FEELINGS OF SATISFACTION REGARDING POLICE COMPULSORY ARBITRATION BOARDS IN RHODE ISLAND EXPRESSED BY THE ARBITRATORS AS COMPARED WITH THE OTHER PARTICIPANTS' PERCEPTION OF THE ARBITRATORS' SATISFACTION, 1971

Participants	Satisfied	Not Satisfied	No Comment
Actual Feelings			
Arbitrators	17	4	2
Perceived Feelings			
Corporate Authority	8	1	3
Union Official	5	5	2
Personnel Director	5	0	0